



LEGISLATIVE ASSEMBLY
NATIONAL CAPITAL TERRITORY OF DELHI

COMMITTEE ON PETITIONS

TWENTY SEVENTH INTERIM-REPORT OF THE SIXTH
ASSEMBLY

SUBJECT: IN THE MATTER OF ALLEGED
IRREGULARITIES IN THE BHAGWATI CGHS LTD

PRESENTED ON 03RD DECEMBER, 2019
ADOPTED ON 03RD DECEMBER, 2019

Legislative Assembly, Old Secretariat, Delhi – 110054

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DELHI LEGISLATIVE ASSEMBLY
COMMITTEE ON PETITIONS

Composition of the Committee

1. Sh. Saurabh Bhardwaj	CHAIRMAN
2. Sh. Pankaj Pushkar	MEMBER
3. Sh. Akhilesh Pati Tripathi	MEMBER
4. Ms. Bhawna Gaur	MEMBER
5. Ms. Bandana Kumari	MEMBER
6. Ch. Fateh Singh	MEMBER
7. Sh. Girish Soni	MEMBER
8. Sh. Raju Dhingan	MEMBER
9. Sh. Shri Dutt Sharma	MEMBER

Assembly Secretariat:

1. Shri C. Velmurugan	Secretary
2. Shri Sadanand Sah	Deputy Secretary
3. Shri Manjeet Singh	Deputy Secretary

PREFACE

1. I, the Chairman, Committee on Petitions, having been authorised by the Committee to present on their behalf, this Report on the petition received from the members of The Bhagwati Co-operative Group Housing Society Limited (Reg No. 1112/GH) countersigned and presented by Sh. Naresh Yadav, Hon'ble MLA and referred to the Committee on Petitions by the Hon'ble Speaker, Delhi Legislative Assembly. The Petition alleged financial irregularities and violation of Delhi Cooperative Societies Act and Rules, 2003 by The Bhagwati CGHS Managing Committee.
2. The Committee considered and adopted the Draft Report at their sitting held on 29.11.2019.
3. The observations/recommendations of the Committee on the above matter have been included in the Report.
4. I would like to thank all the Members of the Committee for their continued guidance.
5. The Committee places on record their profound appreciation for the valuable assistance rendered to them by Sh. Sadanand Sah, Deputy Secretary, Sh. Manjeet Singh, Deputy Secretary, Sh. Subhash Ranjan, Section Officer, Ms Chhavi Banswal, Fellow, Delhi Assembly Research Centre (DARC) and other staff of the Assembly Secretariat in preparation of this Interim-Report.



Dated: 30.11.2019

Place: Delhi

(SAURABH BHARDWAJ)

CHAIRMAN

COMMITTEE ON PETITIONS

INTRODUCTION

1. A Petition requesting investigation of The Bhagwati Co-operative Group Housing Society Limited (Reg No. 1112/GH) was filed by its aggrieved members on 22.05.2019. The Petition was countersigned by Sh. Naresh Yadav, Hon'ble MLA, Mehrauli and presented to the Hon'ble Speaker on 07.06.2019. Thereafter, referred to the Committee on Petitions on 08.06.2019.
2. It was alleged in the Petition that the affairs of The Bhagwati CGHS were not being managed in accordance with the co-operative principles or prudent commercial practices.
3. The Petition levelled allegations against the Society that it was raising illegal demands for out of court settlements.
4. It was also alleged in the Petition that the Society had been captured by its Contractor, who was involved in money laundering activities, thereby, endangering its financial position.
5. Allegations were also made by the Petitioners that 5 Bedroom Flats were being constructed without valid approved drawing/plans from the competent authority and that the cost of actual area charged from members was higher than the approved plans.

BACKGROUND

The Bhagwati Society Cooperative Group Housing Limited has become a household name for the Members of Registrar Cooperative Society, Delhi. A Society that was first conceived in 1983 has courted many controversies since, including its winding up in 1990 to its surprising revival in 1996. Before delving into the case, it is important to understand the history of the Society to provide a context to the agony of the Petitioners. A brief history of the Society as summarised by Sh. N.J. Thomas, Inquiry Officer, appointed by RCS under Section 55 of the Delhi Cooperative Societies Act, 1972 now read with Section 62 of the DCS Act, 2003, vide report dated 09.11.2004, is given below:

“09.10.1983: *The first meeting of the General body (GB) of the Society was held. Only 70 founder-members, out of the 98, attended the said meeting. Byelaws of the Society were adopted by the GB. The byelaws of the Society contained the particulars of these 70 founder- members of the Society. The Managing Committee (MC) was elected, which consisted of 15 members. Sh. Ashok Kumar Gupta was elected the President, while Sh. G.S. Kalra was elected the Secretary.*

21.10.1983: *The Society submitted application to the RCS for its registration. It contained the particulars of 70 founder-members and the particulars of the MC.*

22.12.1983: *The Society was registered at Sl. No. 1112 (GH) w.e.f. 22.12.1983 with the Office of the RCS. The byelaws of the Society were also duly registered with the Office of the RCS.*

05.08.1985: *The Society forwarded to the Office of the RCS the particulars of 150 members enrolled in the Society, alongwith their affidavits. This included the particulars of 70 founded-members.*

20.03.1990: *The Society did not respond to the directives issued by the O/o the RCs on 23.05.1985 11.05.1989 and 01.03.1990 for submission of records for verification of memberships, etc. Hence, Office of the RCS issued a Show-cause- notice to the Society for its winding up.*

25.04.1990: *The Society failed to submit its reply to be show cause notice also. Hence, order was passed by the Dy. Registrar (GH) Office of the RCS, winding up the Society w.e.f. 18.04.90 on the ground that the Society was not serving any useful purpose to its members in particular and to the cooperative movement in general.*

24.08.1990: *The Society filed an appeal in the Court of LG, Delhi against the winding up orders passed by the Dy. Registrar (GH) The LG, Delhi, after hearing the parties concerned, passed order in appeal remitting the case back to the RCS for reexamination.*

14.10.1996: *Shri G.S. Kalra, claiming to be the Ex-President of the Society wrote to the RCS for revival of the Society. In the said letter, he stated that though the Office of the RCS initiated proceedings under section 63 of the DC Societies Act, 1972, of which he came to know much later, due to his prolonged illness and old age, he could not attend to these proceedings. He also claimed that the other office bearers of the Society also could not attend to these proceedings due to their pre-occupation with their problems. He therefore, requested for revival of the said Society and authorized DR. R.L. Arora of Acharya Niketan, Patpar Ganj, to represent him and the Society in the Office of the RCS with regard to matters relating to the affairs of the Society.*

05.12.1996: *Notice for the meeting of the GM on 21.12.1996, together with the agenda of the meeting, was issued by the Society.*

11.12.1996: *Office of the RCS directed the Society to furnish records by 24.12.96 for verification of membership, etc. of the Society.”*

PROCEEDINGS

1. To ascertain the veracity of the allegations made in the Petition, the matter was deliberated on by the Committee on Petitions in 15 meetings, spanning across 15 months, from August 2018 to November 2019. The meetings were held on the following dates: 30.08.2018, 06.12.2018, 15.02.2019, 06.03.2019, 03.04.2019, 12.04.2019, 26.04.2019, 24.06.2019, 19.08.2019, 22.08.2019, 30.08.2019, 23.09.2019, 22.10.2019, 31.10.2019, 11.11.2019_and 29.11.2019.
2. A copy of the Petition was forwarded to the Secretary-cum-Registrar Cooperative Societies (RCS), Government of National Capital Territory of Delhi, on 22.06.2019, seeking comments on the issue within 10 days.
3. In response, Sh. Lekhraj, Deputy Registrar, RCS, conveyed on 06.07.2019 that Sh. P.C. Jain, Sr DANICS Officer, had been appointed as the Inspecting Officer to investigate the allegations made in the Petition as under Section 61 of Delhi Cooperative Societies Act, 2003.
4. However, the above mentioned Order was stayed by the Court of Financial Commissioner in The Bhagwati CGHS Ltd vs RCS & Anr case (283/2018), as informed by Sh. Lekhraj, vide letter dated 18.07.2018. It was further stated that RCS would file an application to vacate the stay.
5. Meanwhile, all allegations made in the Petition were dismissed by Sh. Ashish Jain, President, The Bhagwati CGHS Ltd, vide letter dated 15.09.2019.
6. The first meeting on the matter was convened on 30.08.2018, where it was learnt that the Court of the Financial Commissioner had initially stayed the Order on appointment of an Inspection Officer till

27.06.2018 and then extended it to 06.10.2019. Thus, process of inquiry into the Society and the alleged irregularities could not commence.

7. As the facts of the case took shape after the first meeting, the matter was examined in the consequent proceedings based on the following questions with regards to The Bhagwati CGHS Ltd:

- A) Whether financial irregularities had been committed by the Society and to what extent?
- B) Were there deliberate inefficiencies and discrepancies in the functioning of the Management Committee of the Society?
- C) What is the status of inquiry of the Society to be conducted under various sections of Delhi Cooperative Societies Act, 2003?

A) Whether financial irregularities had been committed by the Society and to what extent?

1. The matter was first introduced in the meeting convened on 30.08.2018, when the key allegations made in the Petition were raised. The allegations primarily revolved around the issues of financial discrepancies that were noted by the aggrieved members of the Society. According to Sh. M.G. Sathya, Asstt Registrar (H/Sec-I), RCS, there were complaints of the Society being used as a front for money laundering, same category flats being priced at different rates, irregularity in awarding the contract to the builder and architect.

2. According to some of the complaints received by RCS, builder Sanjeev Malhotra had been illegally awarded a contract of Rs 312 crores and was being given unjustified dominance in the management of the Society.
3. Complaints were also received about the violation of Section 92 of the DCS Act, 2003. Section 92 of the Act deals with the Execution of Housing Project and Section 92(1) states, *“On allotment of land to, and possession thereof by the co-operative housing society, the committee shall appoint the architect and the contractor with a provision that construction shall be completed as per time limit fixed for completion of construction of the housing project of the society in the sanction letter conveying approval of layout and building plans by the sanctioning authority under the applicable building bye-laws or within five years from the date of sanction of layout and building plans by the competent civic authority, whichever is earlier, with the prior approval of the general body...”*
4. Consequently, a response was received from The Bhagwati CGHS Ltd, on 18.09.2018, denying all allegations of financial irregularities and stating that, *“...the accounts of the Society are regularly audited by the Chartered Accountant appointed by the office of Registrar Cooperative Societies and if there is any money laundering as alleged, the same would have been detected by the auditors, but no such thing has been detected, which clearly shows the affairs of the Society are being smoothly and properly managed...”*
5. The clarifications provided in the reply were vague in nature and left many aspects of the queries unanswered. For instance, the Society was going through a turmoil when it was forced to seek help from the

Contractor. However, it did not disclose the nature of this help, which appeared to be financial in nature. Here, it was noted that the Society was quick to refute any aspersions cast by the Petitioners regarding its financial status, maintaining that it was in a strong financial position and “debt free”. However, at the same time, it took an unsecured loan from the Contractor.

6. To investigate the concerns raised in the Committee meeting, a request, vide letter dated 20.09.2018, was made by RCS to the Superintendent of Police, Central Bureau of Investigation, to provide the original records or authenticated copies of all documents with respect to The Bhagwati CGHS. However, despite several reminders from RCS, the requisite documents were not provided by CBI.
7. Meanwhile at the meeting held on 06.12.2018, RCS had also presented a request from the Petitioners, vide letter dated 29.11.2018, seeking a Forensic Audit of the Society’s accounts, on the basis of the Audit Report 2016-17, dated 05.08.2017, that showed various financial discrepancies.
8. On 11.02.2019, an Order under Section 62¹ of DCS Act, 2003 was issued by RCS in the light of a new Audit Report (2017-2018) of the Society, which found several financial irregularities like the interest rate for the loan taken from the Contractor, Best Buildwell Ltd, was higher than the market rate. It was also observed that the reason behind the

¹ DCS Act, 2003: 62(1): *“The Registrar may on the basis of findings of audit or inspection under section 61 or request from any creditor, or not less than one-thirds of the total members of the co-operative society, by general or special order in writing in this behalf, hold an inquiry or direct any of the subordinate officials authorised by general or special order in this behalf to hold an inquiry in respect of such matters and such period as may be specified in this order, into the constitution, business, management and financial affairs of a co-operative society and such enquiry shall be completed within such period as may be specified in the order but not exceeding ninety days.”*

Society taking a loan from the Contractor who was constructing its flats was also unclear.

9. On every occasion, the Society had failed to present a sound justification for the financial irregularities that were constantly highlighted in the Audit Reports.
10. A complete Status Report was submitted by RCS, vide letter dated 22.10.2019, which informed that an inquiry u/s 62 of DCS Act, 2003 had been initiated against the Society and an Inquiry Officer had been appointed, vide order dated 11.02.2019, to inquire into the financial irregularities pointed out in the Audit Report for the year 2017-2018. Sh. Sanjay Sharma, Inquiry Officer had, thereafter, informed RCS of the initiation of the inquiry proceedings, vide letter dated 09.08.2019. Further, a reminder dated 16.10.2019 was also sent to the Inquiry Officer to expedite the submission of the final report.
11. As corroborated by RCS in the meeting convened on 29.11.2019, the Society was found to have committed several financial irregularities, which were unearthed during the inquiry conducted by Sh. Sanjay Sharma, report dated 19.11.2019. A Status Report, along with the said inquiry report was submitted by RCS at the meeting.
12. RCS had also informed during the meeting that action had been initiated under Section 61a and Sh. Ashwini Kumar Mehta had been appointed as the Inquiry Officer. Here, it was recommendations were made to RCS for the appointment of Sh. M.C. Jha instead, so a retired officer could be appointed for the task.

B) Were there deliberate inefficiencies and discrepancies in the functioning of the Management Committee of the Society?

1. A Petition by Ms Gunjan Sharma and nine other members of the Society, addressed to the Chairman, Committee on Petitions was received on 05.10.2018 alleging that the Society was in process of holding a General Body Meeting on 14.10.2019, to approve its illegal agenda. Thus, the Petition requested to restrain the present Managing Committee to take any financial decision and to initiate appropriate proceedings against the accused Managing Committee Members.
2. The allegations in the said Petition held ground as they came a day after RCS had informed the President, The Bhagwati CGHS Ltd, vide letter F. No. 47/1112GH/Coop./Section-I/304 dated 04.10.2018, that the Society had been restrained from enrolling new members. RCS had cited the order dated 31.10.2017 of Hon'ble CBI Court Rohini in the case CBI vs A.K. Chauhan and Ors (2016), which held that a large number of members had been falsely shown to have been enrolled/resigned and several individuals were shown as members without even having applied for the membership.
3. Consequently, a copy of the new Petition was forwarded to the Secretary-cum-Registrar, RCS, GNCTD on 09.10.2018, seeking his comments and requesting appropriate action. In response, an Action Taken Report was submitted by Sh. Virendra Kumar, IAS, RCS, on 06.12.2018 which stated that the said General Body Meeting of the Society had been deferred by an RCS Order.
4. The ATR also informed that the CBI had been requested for a copy of the original files/records or authenticated files/records with respect to The Bhagwati CGHS Ltd. This was followed by a meeting with CBI

Officers, however, the requisite documents were not made available to RCS. Meanwhile, a detailed reply was also sought from the Society regarding the violation of provisions of Section 92² of DCS Act, 2003.

5. In the meeting convened on 06.12.2018, several concerns were raised over the Managing Committee of the Society. Allegedly, the Management had begun the construction of 5 Bedroom flats which were neither approved by DDA nor by the General Body Meeting.
6. It was also claimed by one of the Petitioners during the meeting that in the light of the several lawsuits the Society was facing, it had arranged for an out of court settlement with 117 members with respect to the withdrawal of their membership. However, the legal validity of these withdrawals were under question as the Society had paid each member Rs 5 lakh in return, making room for enrollment of newer members. The new members were, thus, apprehensive that there was no assurance that these old members would not return in future, risking the status of those who were enrolled thereafter. There was also a procedural lapse on the part of the Management here, as noted by RCS, the above said process has not been mentioned in the DCS Act, 2003. The Act only provides for clearance of dues on a member's resignation.
7. Meanwhile at the meeting, RCS had also presented a request from the said Petitioners, vide letter dated 29.11.2018, seeking a Forensic Audit of the Society's accounts as well as supersession of the Managing Committee under Section 37³ of the DCS Act, 2003.

² Provisions regarding execution of housing projects

³ DCS Act, 37 (b): "...if in the opinion of the Registrar, the election of committee is not feasible under the prevailing circumstances, the Registrar shall pass an order in writing to remove the committee and appoint one or more administrators to manage the affairs of the co-operative society..."

8. During the course of the proceedings, the Society had intended to hold an Annual General Body Meeting (AGBM) on 24.03.2019. As the matter was being closely scrutinised with respect to the allegations made by the Petitioners, a directive was issued by RCS, vide letter dated 22.03.2019. As per the RCS letter, stipulations were imposed on the Society to not take any decisions that may be detrimental to the interest of its members. It was also directed to record the proceedings of the AGBM on video and make it available on a CD to the appointed Observer, Sh. Ajit Kumar (Assistant Registrar) on the same day. The Society was also informed that the decisions taken in the meeting would be subject to the outcome of inquiry as under Section 62 of DCS Act, 2003, which was already underway.
9. Since the matter was first taken up by the Committee, RCS had issued several Orders to the Society, including a stay on enrollment of new members. Sh. Ashish Jain, President Bhagwati CGHS Ltd, had thus, vide letter dated 15.04.2019, requested the Hon'ble Speaker and the Committee to allow it to enroll new members against the vacancies. The President had also stated that the Society's construction work had been completed up to 80% and had been stalled since October 2018 due to the Stay Orders by RCS, which was leading to financial losses.
10. An Action Taken Report with respect to the above mentioned request was thereby submitted by RCS on 21.06.2019, stating that the Department was in the process of examining if the details of enrollment of members are as per the provisions of the DCS Act and Rules, 2003. After the initial examination of the list, it was found that 561 members had been shown to be resigned. A few members who came in public hearing complained of non-refund of their payments by the Society.

The Society had, thus, been asked to submit its comments in this regard.

11. The issue of discrepancies in the enrollment of members continued to dominate the discussion even during the meeting held on 23.09.2019. At the meeting, it was informed by RCS that the Society had provided them with a list of 253 members that had been enrolled and a petition was filed in the Court of the Financial Commissioner to allow enrollment of new members. However, the Society had enrolled an additional 70 members and there was no clarification regarding them. Effectively, their enrollment increase the members to more than the stipulated free strength. In response, the Society had informed RCS that it had not enrolled these additional 70 members.
12. At the meeting it was agreed that RCS would provide a list of these 70 members along with their addresses so they could be called for the next meeting to clarify their position.
13. A status report on the above mentioned issue, vide letter dated 24.09.2019, was submitted by RCS which stated that of the 70 members, complete addresses for only 29 could be retrieved, while 26 had listed incomplete addresses. Addresses for the remaining 15 members were not available. Thus, RCS was making attempts to gather the complete details of these 41 members.
14. During the meeting convened on 29.11.2019, RCS was requested to conduct a Fire Safety Audit of The Bhagwati CGHS and also asked to undertake an on-site visit to compile a report on the progress of their construction work.

C) What is the status of inspection of the Society to be conducted under various sections of Delhi Cooperative Societies Act, 2003?

- 1 .To understand the nature of complaints and the case history, in the meeting held on 06.12.2018, questions were asked about the revival of the Society in 1997 and the process through which it was revived. However, the query was added to a long list on questions about The Bhagwati CGHS that remain unanswered for the lack of requisite documents. In this instance, the files were not provided by CBI despite repeated requests by RCS, vide letters dated on 20.09.2018, 05.10.2018, 20.11.2018, and 05.12.2018.
2. In order to inquire the matter further, RCS was requested, vide letter dated 03.01.2019, to provide the certified copies of Court files of six cases related to The Bhagwati CGHS Ltd that had already been decided by the Hon'ble High Court of Delhi. The Secretary, RCS, was thereby asked to apply for obtaining the said documents from the Hon'ble Delhi High Court through the Standing Government Counsel(s).
3. On 11.02.2019, an Order under Section 62 of DCS Act, 2003 was issued by RCS in the light of the Audit Report (2017-2018) of the Society, which found several financial irregularities. The Order informed the Society that Sh. Sanjay Sharma, Under Secretary, Ministry of Skill Development and Entrepreneurship, Government of India had been appointed as Inquiry Officer under Section 62 of the DCS Act, 2003. Therefore, an inquiry would be initiated into the constitution, business, management and financial affairs of the said Society in the view of the said Audit Report. It was also stated that the inquiry would be completed within a period of 90 days and would be paid a consolidated remuneration of Rs 15,000 out of the Society's fund.

4. On 14.02.2019, certified copies of five case files, except Case No. WP(C) No. 10066/2004 titled Yogi Raj Krishnan Cooperative Society GRO vs DDA and Others, were provided. Subsequently, after the meeting conducted on 03.04.2019, RCS requested the Standing Government Counsel (Civil), GNCTD, to provide an authenticated copy of the above mentioned case file. However, the file in question could not be made available.
5. In the meeting held on 06.03.2019, it was learnt that The Bhagwati CGHS Ltd had initiated a dispute settlement with some of the Complainants on whose testimony RCS had been conducting the inquiries. However, the Committee was of the view that since the matter was not only about a few aggrieved members of the Society but also in the larger public interest, the proceedings should go on.
6. During the course of proceedings, it was observed that many of the Orders issued by RCS with respect to the Society had been stayed by the Court of Financial Commissioner. Therefore, in the meeting held on 19.08.2019, it was agreed that RCS would compile a list of all the Orders that had been stayed by the Court of Financial Commissioner.
7. According to the documents provided by RCS, vide letter dated 11.09.2019, RCS had a total of three cases against The Bhagwati CGHS Ltd in the Court of Financial Commissioner as listed below:

a) F.C. Court Suits No. 200/18: Sh. Ajay Chagti was appointed as Inquiry Officer u/s 66(1) of DCS Act, 2003 by RCS vide order dated 08.05.2018. The said Order was challenged by the Society before the Financial Commissioner and the F.C. passed an order dated 08.06.2018 staying the impugned order of RCS. The matter is still pending in Court.

b) F.C. Court Suits No. 283/18: Sh. P.C. Jain was appointed as Inspecting Officer u/s 61 of DCS Act, 2003 by RCS, vide order dated 26.06.2018. On 06.07.2018 the Society approached the F.C. and obtained ex-parte stay order on 06.07.2018. The matter is still pending in Court.

c) F.C. Court Suits No. 412/18: RCS passed an Order dated 04.10.2018 restraining the society from enrolling new members in the Society which was challenged by the Society before F.C. However, on RCS' intervention, the F.C. refused the grant of stay. The matter is still pending in Court.

8. A Status Report was submitted by RCS, vide letter dated 22.10.2019, stating the Case No. 200/18 and 283/18 had been adjourned to 03.11.2019, while Case No. 412/18 had been adjourned to 05.11.2019.
9. To add to the bulk of complexities around the irregularities committed by The Bhagwati CGHS LTd, a new Petition was received by the Hon'ble Speaker on 17.09.2019. In the Petition, Sh. Pramod Tyagi stated that he had become a member of the Society in 1996 and had deposited a sum of Rs 8,37,802 till 09.09.2014. The Petitioner alleged that he not only suffered financially and mentally because of the slow progress of the Society's construction, but he was also expelled thereafter. The Petitioner requested that his case is also considered with the rest of the cases being examined by the Committee.
10. A copy of the Petition was forwarded to the Secretary, RCS, vide letter dated 20.09.2019 for their comments and plan of action. Subsequently, an Action Taken Report was submitted by RCS, vide letter dated 23.09.2019, that revealed that Sh. Pramod Tyagi had initially enrolled in the Society vide membership No. 378 on 20.12.1997. However, due

to non-payment of dues, the Society had expelled him u/s 86⁴ of DCS Act, 2003 and submitted a proposal for the same to RCS. The Society had passed a resolution on 09.04.2017 for expulsion of 107 members. The matter was then referred to the Special Registrar for conducting the expulsion proceedings u/s 86 of DCS Act, 2003 and Rule 99⁵ of DCS Rules, 2003 against 42 defaulting members, including the Petitioner. Consequently, the order of expelled members passed by the Special Registrar also included the name of Sh. Pramod Tyagi. The Petitioner had then filed a revision petition before the Delhi Cooperative Tribunal (DCT). The matter is now sub-judice before the DCT.

⁴ DCS Act, 2003: 86 (1): *"Notwithstanding anything contained in this Act and the rules framed thereunder, the committee of a co-operative housing society may, by a resolution, expel a member..."*

⁵ DCS Rules, 2007: 99(1): *"The cooperative housing society may in accordance with the provisions of sub-section (1) of Section 86, expel a member..."*

FINDINGS

Inaction on previously conducted inquiry

1. During the course of the proceedings it was found that a comprehensive inquiry of The Bhagwati CGHS Ltd was conducted by Sh. N.J. Thomas, Inquiry Officer, appointed by RCS under Section 55 of the Delhi Cooperative Societies Act, 1972. A report for the same was submitted vide letter dated 09.11.2004, which highlighted several irregularities in the Society's functioning, yet it seemed the said report was not acted upon by RCS. Some of the findings of the report are given below:

“1. In November, 1996: On information that the society was out of touch with the Office of the RCS for long, the mafia, represented by Shri J.K. Jain, an Architect, along with Shri J.K. Badhwar, Director of M/s Badhwar Universal Constructions Pvt Ltd, struck a deal with the Office of the RCS and conspired to take over the said Society by fabricating and forging records to get a duplicate Registration Certificate and Byelaws for the Society issued from the Office of the RCS;

2. During the period 1997 to September, 2000: The case of the Society for allotment of land was forwarded by the Office of the RCS to the DDA, after authenticating the fictitious records, although the list of 300 members forwarded by the Office of the RCS to the DDA mostly consisted of bogus/benami members, whose signatures in the affidavits were forged; that the names of the original members/management were removed and were replaced by bogus members; that allotment of land to the Society by the DDA was, therefore, on the basis of misrepresentation / misinformation/ forged documents/bogus and benami

memberships; that amount of Rs 6 crores paid by the Society to the DDA came from the builder/bureaucrats; that the Society enrolled about 100 new members in the Society after charging Rs.2 to 3 lakhs as premium over and above the cheque payment and thereby the Society collected approximately Rs. 15 crores illegally;

3. During the period September, 2002 to June, 2004: When the matter reached the High Court of Delhi, the RCS had to temporarily supersede the society and appoint Sh. R. Narayana as the Administrator of the Society However, before Sh. Narayana took charge, the Managing Committee (for short MC) of the society joining hands with Sh. N. Diwakar RCS and Sh. J.K. Badhwar, the contractor, sold the Society to Sh. Sanjeev Malhotra, Director of M/s Best Buildwell Pvt Ltd for Rs.2 crores as premium. Sh. Sanjeev Malhotra got himself appointed as the new contractor of the Society, replaced 150 previous bogus list with his own bogus/benami members; that Sh. Sanjeev Malhotra is presently trying to sell the Society to any buyer for a sum of Rs. 10 crores; that Sh. N. Diwakar, as a party in this game plan received at least Rs. 1 crore as reward; that the illegal funds to the tune of Rs. 4 crores for takeover of the Society by Shri Sanjeev Malhotra were diverted from Seth Vihar Cooperative Group Housing Society (Regd. NO. 1328), another venture of Shri Malhotra, functioning from its site at Plot No. 4, Sector-14-A, Dwarka; that as a part of the game plan to sell the Society to Shri Sanjeev Malhotra, he was inducted as a member along with 100 other bogus/benami members by the MC by fabricating and forging record; that within a short time, Shri

Sanjeev Malhotra was appointed as the contractor of the Society on a highly inflated amount of Rs 15 crores (approximately), that the illegal entry of Shri Sanjeev Malhotra, along with his 100 other bogus members, was based on a General Body Meeting supposed to be held on 29.12.2002 after fabricating the signatures of more than 140 members; that a new bank account was opened for his purpose; that complaints were made to the RCS in this matter, but in the face of failure on the part of the RCS to take any action, the members had to make complaints to various other authorities.

4. The material collected/submitted in the course of the inquiry was carefully analysed by the undersigned and the following facts have been revealed:

A) The Society was formed in 1983 and was registered with the O/o the RCS with 70 members w.e.f 22.12.1983 at Sl. No. 1112 (GH). The Chief Promoter of the Society was Sh. G.S. Kalra, businessman, with his address at II/M-54, Lajpat Nagar, New Delhi. Almost all the members of the Society appear to have been either passive members or non-existing members and the Society appear to have been existent only on paper till October, 1996, as is clear from the facts that (i) the mandatory Annual General Body Meetings of the Society were held only twice in the entire life of the Society from October 1983 to October 1996, the first one on 9.10.1983 and the second one on 26.11.89, (ii) the audit of the accounts of the Society was carried out during the same period only once to cover the period

up to 1986-87; (iii) the Society never responded to the innumerable notices and directives issued by the O/o the RCS to hold Annual General Body Meetings to carry out the annual audit of the accounts of the Society and to submit the records of the Society for verification of membership etc.; (iv) none of the so-called members of the Society ever bothered about the affairs/fate of the Society nor did they approach the RCS with the grievances, even after the Society was declared defunct and wound up by the O/o the RCS on 25.4.1990.

B) All of a sudden, out of the blue, a letter dated 14.10.1996, purportedly written Sh. G.S. Kalra, claiming to be the “Ex-President” of the Society was received in the O/o the RCS, requesting revival of the Society. The O/o RCS took up this request in right earnest, ignoring the facts (i) that Shri G.S. Kalra had signed the letter in his capacity as tge ex-President of the Society and not as the President; (ii) that there was no resolution passed by the GB of the Society to revive it; (iii) that there was no functional MC of the Society for quite a long time; (iv) that the signature of Sh. G.S. Kalra did not match with his signature in his earlier communications to the O/o the RCS, (v) that the said letter specifically stated that Dr R.L. Arora would act on behalf of the Society, but did not mention about his status within the management of the Society, that is, whether he was an employee of the Society, or a member of the MC or an ordinary member of the Society; (vi) that the register containing the minutes of the MC meetings

specifically had an entry to the effect that a meeting of the MC was held on 06.10.1996 and was attended by S/Sh. C.B. Sharma, G.S. Kalra, Sheeshpal Sharma, Rajesh Nagpal, V.K. Sharma, Dr. R.L. Arora, Smt Krishna Kumari and Ms Promila Sardar, but expect for Shri G.S. Kalra all others were not even members of the Society. In fact all these persons were enrolled as members of the Society only on 1.12.1996 by the self-appointed MC, the decision of which was subsequently confirmed by a so-called meeting of the GB held on 14th November 1996 only and as such, they had no locus standi in attending the meeting of the said MC held on 6.10.96 and subsequent meetings held on 6.11.1996 and 1.12.1996 and take decisions on behalf of the Society, including the decision to approach the O/o the RCS for revival of the society; vii) the meeting of the GB held on 21.10.1996 was attended by only 23 persons of whom, 12 were purportedly existing members, while the remaining 11 were those who were admitted to the Society by the self-appointed MC in its meeting held on 1.12.1996 and confirmed by the GB in its meeting held on 21.12.1996; viii) that all these 11 newly enrolled members got themselves elected to the MC of the society in the GB meeting held on 21.12.1996 giving rise to the possibility that the other 12 members of the society might not have attended the said meeting (otherwise, some of them would have contested the elections to the MC, but there is no record to show that a notice calling for nominations was issued); ix) the election of the 11

members to the MC in its meeting held on 21.12.1996 violated the provisions of Rule 29 of the Delhi Cooperative Societies Act, 1972 and byelaw 6 (b) of the Society itself (x) that all of a sudden the MC in one of its meetings held in January-March, 1997 decided to increase the strength of the Society from 150 to 300 members, without reference to the GB; (xi) that the Society had failed to submit copies of audit report for the period 1987-88 to 1995-96 and the minutes of the GB meeting held on 09.03.97;(xii) that the original records of the Society for the period prior to 06.10.96 were not traceable and on which a criminal complaint was filed with the police by Dr. R.L. Arora on 17.02.1997; (xiii) there were certain discrepancies in the lists submitted by the Society to the O/o the RCS on 15.09.89 and on 01.01.97 as for example, (a) 10 members, namely S/Sh. Brahm Dev Dogara, Om Prakash Jangrid, Gopal Dass, Harish Chader Saini, Subhash Chander, Som Pal Singh, B.D. Bhardwaj, Sant Ram Anand, Deepak Dogara and Narender Kumar Thakkar, whose resignations were stated to have been accepted by the MC on 05.09.89 were included in the list of members of the Society as on 30.11.96; (b) six out of the 11 members enrolled in the Society between the period 06.09.89 and 30.11.96 were shown to have applied for membership in May/June, 1987 but why these persons were not admitted to the Society by the MC in its meeting held on 05.09.89, even though there were vacancies available then was not explained and this would have

raised questions on the authenticity of the date of their applications; (c) in the list submitted by the Society to the RCS on 01.01.1997, eleven members were shown as resigned in the year 1988, but, none of these members figured in the list of resigned members submitted to the O/o the RCS on 15.09.1989 and (d) the original membership numbers in respect of the 70 founder members seems to have been altered while submitting the list of members with membership numbers, etc. as on 01.01.97, and (xiv) that revival of the Society, after a gap of about 6 ½ years of its winding up, would have given the society the original seniority for the purpose of allotment of land by the DDA, thereby denying other Societies next in line in the seniority list, of their right for allotment of land by the DDA on an earlier date than the date on which they were actually allotted and with choice of locality. These shortcomings would have in the normal course raised suspicions on the authenticity of the MC and its meetings held between October to December, 1996 and the subsequent so called meeting of the GB held on 21.12.1996 and the statements, affidavits and documents submitted by the society to the O/o the RCS. But the RCS and his subordinates are seen to have totally ignored these facts, while considering the request of Shri F.s. Kalra/Dr. R.L. Arora for revival of the Society.

5. The contract originally awarded to M/s Badhwar Universal Construction Pvt. Ltd. was to construct 300 dwelling units for the Society at a cost of Rs. 27.42 crores. This contract was

rescinded in January, 2003 and the said contract was awarded to M/s Best Buildwell Pvt. Ltd. at a cost of Rs. 41.37 crores There appears to be no justification for the escalation in the cost to the tune of about Rs. 15 crores, since the number of the dwelling units to be constructed remained the same (i.e. 300 dwelling units) without any change in the approved building plan of these dwelling units. Obviously, this was a ploy to fleece the genuine members of the Society, who would be allotted the flats in due course. Only a cost evaluation by an accredited valuer can establish whether the contract for building 300 dwelling units for the Society at an estimated cost of Rs. 41.37 crores is sustainable on the basis of the plan approved by the DDA/Urban Arts commission and the cost of materials to be used in construction.

6. Each membership of the Society changed hands approximately 2.5 times on an average. In fact up to 30.11.96, almost all the original 150 members of the Society, except for the members with membership Nos.12,15,16,25,69,71,72,76,82,123 and 125, were shown as members of the society but by 31.03.2001, only two of these 150 original members, namely S/Shri G.S. Kalra and Dr. Ashok Kumar Chauhan were shown as existing members of the society. In fact, the death of Shri G.S. Karla was known the Management of the Society as early as in February, 2000 but Shri Karla was continued to be shown as a member even now. During the period July, 1997 to March, 2001 as many as 139 members were enrolled, while 231 existing members were shown as resigned. This gives rise to the possibility that the list

of 300 members given by the Society to the O/o the RCS for fixing the freeze strength for the purpose of fictitious members with the motive of getting maximum permissible area of land and the opportunity to seal the membership at a handsome premium to the people who were genuinely desirous of acquiring flats through Cooperative Group Housing Societies.

7. The allegation made by Shri Deepak Khanna in his representation dated 25.06.2004 is substantively established on the basis of evidence on record as bought out in part V and VI of the report as well as on the basis of preponderance of probability. However, the ingredients of the allegation that (i) the society collected Rs. 15.00 crores illegally by charging premium from persons enrolled as new members; (ii) benefits in cash and kind were accepted by the officers of the RCS for hushing up complaints and defending litigations filed against the Society; (iii) Shri Sanjeev Malhotra is trying to sell the Society to someone else at a premium of Rs. 10.00 crores and (iv) Rs. 1.00 crore was paid to Shri N. Diwakar, the former RCS for facilitating the builder mafia to take over and manage the society, could not be conclusively established for want of concrete evidence. Similarly the ingredient of the allegation that the signatures of the so called members of the society, who were shown as resigned/enrolled as new members during the period 1996 to 2002 were fake and forged could not be verified for want of forensic expert's opinion on these signatures."

2. It should be noted here that even though the inquiry report was submitted in 2004, RCS failed to show that any follow up action in this

regard was taken in the meantime, until 08.05.2018, when Sh. Ajay Chagti, Special Secretary, Department of I.T., GNCTD was appointed as Inquiry Officer u/s 66(1) of the DCS Act, 2003. While the report clearly showed that many RCS officers had also taken bribe in cash and in kind, no Action Taken Report by the Department has been submitted to show that the defaulting members had been brought to the book.

Financial irregularities committed by the Society

On receiving the Petition from Ms Gunjan Sharma and nine other members of The Bhagwati CGHS Ltd, vide letter dated 05.10.2018, RCS was requested, vide letter dated 09.10.2018, to look into the matter and furnish their comments. Once RCS looked into the Petition, which was requesting immediate supersession of the Managing Committee of The Bhagwati CGHS Ltd, several financial irregularities were unearthed.

1. In a letter dated 05.12.2018, RCS had informed the Society of the lack of transparency in its financial matters. According to RCS, a revised contract was awarded to M/s Best Buildwell for Rs 312,11,52,720, which found no mention in the minutes of the meeting dated 30.09.2012. Moreover, there was no mention of the number of dwelling units in each category, while the rates of the flats seemed to have been decided arbitrarily *“with the intent to dishonestly misappropriate the funds of the society without any justification of cost and not even approved by the AGBM.”*
2. The allegations of different amount being charged to different members were also found to be true. On perusal of the Audit Report 2016-2017,

dated 05.08.2017, RCS observed variations in the amount paid by various members to the Society. It was noted that there was no clarity over whether such variations were on account of different categories of flats or on account for differential existing rates being charged or some other reason. Thus, there was no transparency in the rates being charged to different members.

4. With respect to the Audit Report 2017-2018, though the Society submitted compliance, vide letter dated 31.01.2019, to RCS, it was found to be unsatisfactory. Thereafter, an inquiry was conducted by the Department, under Section 62 of the DCS Act, 2003 to look into the constitution, business, management, and financial affairs of the Society. The Report for the same was submitted during the meeting held on 29.11.2019. Some of the key findings of Sh. Sanjay Sharma, Inquiry Officer that corroborated the allegations made in the Petition are stated briefly below:

a) An amount of Rs 26,97,790 was recoverable from an ex-employee who committed fraud. No efforts had been made to recover the said amount.

The Society claimed that in January 2014 it came to their knowledge that, Shri Malay Paul (Ex. Accountant) and Anil Chaudhary, (Ex. Manager) had transferred money from the Society's funds to their accounts illegally. Once the matter came to the Society's notice, the Managing Committee immediately issued a Show Cause Notice to the erring employees and both the employees re-deposited 90% of the funds to the Society's account within January itself. However, on the complaint of some members, RCS appointed Sh. P.K.

Saxena as Inquiry Officer to investigate the matter. It was reported by the Inquiry Officer that no financial loss had been incurred by the Society because of the indiscretions of its two employees.

Inquiry Report: As per the Audit Report 2017-2018, the Society was yet to recover a sum of Rs 26, 97, 790 from the said ex-employees. Therefore, the Society's stance that it incurred no financial loss, as the embezzled money had been refunded, was incorrect.

In the absence of any concrete steps being taken by the Society to recover this amount, the Inquiry Officer recommended that an FIR should be filed against the said officials. Consequently, a complaint was filed by the Society against the two ex-employees, in Dwarka, Sector-23 Police Station on 05-07-2019.

b) The Society had not cleared the dues of the members who had resigned, with the amount reaching Rs. 9,42,12,078.

The Society defended its non-clearance of dues by citing its expulsion proceedings against 107 members, in which 42 members were expelled by the then Special Registrar, vide order dated 07.09.2017. Though, the expulsion proposal for remaining members was dismissed by the Department, thereby compelling the Society to appeal before the Delhi Cooperative Tribunal. As the case was still pending in the Tribunal, the

Society decided against clearing the dues of the members involved.

It was also stated by the Society that there was a vacancy of around 50 members, but an RCS Order dated 04.10.2018, was preventing it from enrolling new members, which had affected the Society's financial position. It was also submitted that some of the members had threatened to seek legal recourse in the matter, thus a few of them had been refunded their money.

Inquiry Report: The Society's claims were found to be true and it was advised by the Inquiry Officer to make efforts to recover the dues from the defaulting member to improve its financial health so as to pay the dues of all the members who had resigned.

c) An unsecured loan of Rs 3,12,11,527 was taken by the Society on an interest rate higher than the market rate. It was also not clear why this loan was taken from a Contractor, M/s Best Buildwell Pvt. Ltd, who was also involved in the construction work of the Society.

The Society submitted that in order to get its drawing approved by DDA, it had to first clear the dues of the Authority, amounting to approximately Rs 3.6 crores, vide demand letter no. 7(14)98/GH/DDA/7057 dated 10.05.2013. Pressed for money, the Society decided to seek an amount of Rs 3.12 crores from the contractor as performance security i.e., 1 % of revised contract amount. Thus, the amount was not a loan.

Inquiry Report: Here it was observed that the Society had followed unethical financial practices to meet its financial needs. There was no safe agreement between the Contractor and the Society. Even though there was no apparent loss to the Society here, it was still noted to be a risky proposition that could have potentially endangered its financial position.

d) An amount of Rs 39,52,650 belonging to the Society was with Parasnath Enterprises and no efforts were being made to recover this money.

In the year 2001, according to the Society, a contract for construction of boundary wall was given to Parasnath Enterprises by the then Managing Committee. However, as the Architect at that time, M/s Design Arch resigned from the society, following which the bills submitted by the Parasnath Enterprises could not be verified and approved for the payment. Thus, the remittance was cleared through a running account, therefore, still shown as outstanding.

The Society put forth the defense that it had made efforts to reach Parasnath Enterprises over the phone, however, their efforts were in vain. It went on to claim that the present Managing Committee was helpless in this case as the said amount was not recoverable “due to the law of limitation”.

Inquiry Report: It was noted that this financial dealing was clearly mishandled by the Society, especially since there are no documents or records here that may carry legal sanctity. A

timely written notice/legal action in this case would have sufficed, though the negligence on the part of the officer dealing with the matter complicated it further. The Society was asked by the Inquiry Officer to identify and fix the responsibility of the defaulting official here who had been callous in their work.

e) Lok Hitakari S.A. Samiti Ltd owed the Society Rs. 86,00,000 and no efforts had been made to recover this amount so far.

Here, the Society submitted that its former Secretary, Dr. R.L Arora had embezzled funds amounting to Rs 1,17,00,000 between 03.12.1999 to 07.05.2000. He had done so with the connivance of the then Treasurer, Smt. Promila Sardar. The two had allegedly purchased a land in Ghaziabad, U.P. on behalf of the Lok Hitakari S.A. Samiti Ltd, following which an FIR was registered against them by the Society. Despite the legal proceedings, the Society was only able to recover Rs 25 lakhs from the accused, who eventually passed away.

Inquiry Report: It was once again noted by the Inquiry Officer that the Society had made earnest efforts to follow up on the case and recover the amount. As a result, the legal proceedings only stretched out for long enough to witness the demise of Dr R.L Arora. Here, it was recommended by the Inquiry Officer to identify and fix responsibility of the officials dealing with the matter, since their negligence caused huge financial losses to the Society.

Among other things, the Report noted that the Society was owed Rs 7,00,361 by Designarch Consultant Pvt Ltd and Rs 1,00,000 by Bharti S.A. Samiti Ltd. As in other instances, here too, the Society showed lack of effort in recovering the amount, which led to a considerable financial loss.

f) The Society had paid legal fees of Rs 5,50,000 to Advocate Sidharth Ludhara and Rs 11,00,000 to Advocate Rajinder Singhvi, from its fund.

In the year 2017-18, the above mentioned Advocates had been paid a sum total of 16,50,000 for their services rendered during the case CBI vs A.K Chauhan and Others (2016) (Case No. RC61 (A)/2006/SBI/MDMA/DLI). Since the case was of criminal proceedings against the accused, who was then convicted, it was inappropriate of the Society to bear his legal fee.

Inquiry Report: This blatant disregard of basic financial rules was noted by the Inquiry Officer, who submitted that, *“The Society failed to observe as to which provision of DMC Act and their Bye Laws permit the management of Society to help any of its member and in what manner.”* Thus, the Society was advised to initiate immediate action to bring the money back.

g) TDS/DVAT had not been deducted on payment made/ credited to contractors against an amount of Rs 104.27 crores of Rs 4.17 crores.

Here it was reasoned by the Society that the Contractor, M/S Best Buildwell Pvt Ltd had paid the said tax directly, hence there was no need to deduct a TDS.

Inquiry Report: The Inquiry Officer was surprised by the oversight of the Society, since deduction of TDS was a routine matter and the Accounts Department as well as the concerned CA of the Society were expected to be aware of it. This underlined the need for an effective and efficient official in the accounts division of the Society, so such lapses could be avoided in future.

Thus, referring to the Compliance Report dated 31.01.2018, submitted by the Society to RCS, the Inquiry Officer noted that *“it was nothing but eyewash, without supporting documents sustaining their compliance statements.”*

Mismanagement by the Managing Committee of the Society

The Society was in continuous violation of the DCS Act and Rules, 2003. According to a communication sent by RCS to the Society on 05.12.2018, it appeared that the Society had been recurrently revising its layout plan to circumvent the time-limit prescribed in Section 92(1)⁶ of DCS Act, 2003, as it failed to furnish the initial date of commencement of construction and approval of building layout plan from time to time.

⁶ DCS Act, 2003: 92(1): *“On allotment of land to, and possession thereof by the co-operative housing society, the committee shall appoint the architect and the contractor with a provision that construction shall be completed as per time limit fixed for completion of construction of the housing project of the society in the sanction letter conveying approval of layout and building plans by the sanctioning authority under the applicable building bye-laws or within five years from the date of sanction of layout and building plans.”*

1. The allegations of construction of 5 Bedroom flats without the approval of DDA were also found to be true. It was found that the layout plan approved by DDA on 17.05.2015 was for construction of flats with 2, 3 and 4 bedrooms only. The size/categories of the flats were also changed without affording any opportunity to the members. A revised layout plan was provided to RCS by the Society, vide letter dated 06.11.2018, which indicated there were 17 flats under construction, in the 5 BHK category.
2. During the meeting held on 29.11.2019, RCS was asked to conduct a field inspection of the Society. On 02.12.2019, photographic evidence (Annexure-I) was submitted by RCS which showed that the Society had been constructing luxury flats in the name of cooperative housing. This is a blatant violation of the DCS Act, 2003, as the Society had acquired land at subsidized rate from DDA for the purpose of cooperative housing. It was also found that the Society had constructed a Sample Flat, which was being shown to potential “buyers”. This is contradictory to the principles of cooperative housing.
3. The allegations of an out of court settlement with old members was also found to be true. On perusal of the Audit Report 2016-2017 of the Society, the Petitioners had submitted, vide letter dated 29.11.2018, that during the period of the audit, a sum of Rs 15,03,200 was reflected in old members settlement account. On further inquiry, the Petitioners found that there were some old members who had been reclaiming their membership. Hence, in the GBM dated 26.03.2017 (Agenda No. 4), a resolution was passed to collect a fund of Rs 5 lakh from each member to illegally settle the cases with 117 old members and raise the demand to all members. While the total demand under this head should have

been Rs 5.85 crores (117 members x 5 lakh each), the Society had collected a total of 15 crores (300 total members x 5 lakh each). Thus the Management Committee had deliberately extracted more funds from the members on the pretext of settle of account with old members. There are no provisions under DCS Act and Rules, 2003, to charge the above mentioned expenses from the new members of the Society.

4. The Society was also found to have been dubiously enrolling members beyond its freeze strength, as it was report by RCS, vide letter dated 22.10.2019, that as information of as many as 41 members enrolled by the Society was incomplete or unavailable. At the same time, the Society had denied enrolling these members, though it reflected in their records.
5. On 29.11.2019, an Inquiry Report, as under Section 62 of DCS Act, 2003, was submitted during the Committee meeting. While the primary findings of Sh. Sanjay Sharma, Inquiry Officer, revolved around the financial irregularities, several anomalies were also observed in the administrative functioning of the Society.
6. Once again, the membership status of the Society was questioned, as the Inquiry Officer found that membership register had not been signed by all members. In its compliance report, dated 31.01.2019, the Society had informed RCS that the issue had been resolved and immediate steps had been taken to complete the membership register. However, the Society failed to submit a record/ documentary proof of the said compliance, which is a standard procedure. It had submitted its latest Audit Report (2018-2019) to RCS, in which it was mentioned that a majority of the members had signed the membership register. Hence, it was still partly compiled.

7. It was also noted in the Inquiry Officer that as per the compliance report, the Architect appointed by the Secretary had not passed the Contractor's bills in accordance with the approved rates, terms and conditions of tender agreement. Thus, the Inquiry Report noted that this amount outstanding in the Contractor's account must be reconciled. The Society was therefore, advised to verify the documents related to labour employed and major material consumed for the purpose of quality, through the architect in accordance with terms of tender agreement.

Delays in the inquiry process

1. In the meeting held on 06.03.2019, it appeared that the pathway for conducting an inquiry into the Society as under the DCS Act, 2003 was riddled with hurdles. At first it was learnt that the various Orders issued by RCS for the inquiry had been stayed by the Court of Financial Commissioner.
2. Later it was also found that Sh. P.C. Jain, Inquiry Officer as under Section 61 of the Act, was on the verge of retirement. While, Sh. Ajay Chagti, who was appointed as Inquiry Officer under Section 62 of the Act had resigned and the responsibility was now taken over by Sh. Sanjay Sharma.
2. While the inquiry in the matter should have been expedited, it was only stalled and prolonged because of repeated stays granted by the Court of the Financial Commissioner, Delhi. Both the inquiry orders issued by RCS were stayed by the F.C. and thereby, delaying the proceedings further.

3. Here it is also worth noting that the stay in the Case No. 283/18 was granted ex-parte, in the absence of the legal counsel Sh. Shyam Sunder Dalal representing RCS. On examination of the prevalent circumstances, it is unclear as to why the stay was granted as RCS was within its jurisdiction to conduct an inquiry. In the subsequent meeting held on 30.08.2018, RCS was questioned over their absence from the F.C. hearing and why was their no counter application filed. Hereafter, they committed to filing an application to vacate the stay. It is also observed here, when RCS had sought an early hearing in the matter to file an application to vacate the stay order, the F.C. did not find any reasonable grounds to grant an early hearing. Thereafter, said application was finally filed on 05.10.2018.
4. A spate of such incidences led to RCS raising concerns, in the meeting held on 29.11.2019, over the inadequate representation by Sh. Shyam Sunder Dalal and his reluctance in performing his duties diligently. Therefore, it was recommended that he be relieved from the Panel of Government of National Capital Territory of Delhi.
5. On a closer examination of the files provided by RCS, several lapses on the Department's part were also discovered. Some of the key findings are stated briefly as below:

Inquiry under Section 66(1):

As stated in an order by RCS, vide letter dated 08.05.2018, an inspection u/s 55 of the DCS Act, 1972 now read with Section 62 of DCS Act, 2003 was conducted by Sh. N.J. Thomas, Inquiry Officer. According to the Order, the report for this inquiry was submitted on 23.02.2018, whereby it was found that there were several instances of misconduct and

irregularities committed by The Bhagwati CGHS Ltd. Thereafter, in a follow up to the above mentioned inquiry, Sh. Ajay Chagti, Special Secretary, Department of I.T., GNCTD was appointed as Inquiry Officer u/s 66(1) of the DCS Act, 2003.

According to the documents received from RCS, Sh. N.J. Thomas was appointed as the Inquiry Officer vide order dated 28.07.2004 and the Inquiry Report was submitted on 09.11.2004. However, a follow up on the above mentioned inquiry was only done in the year 2018 with the appointment of Sh. Ajay Chagti, Inquiry Officer, u/s 66(1) of the DCS Act, 2003, vide order dated 08.5.2018. Thus, there appeared to be negligence on the part of RCS here as even though the inquiry conducted in 2004 found several irregularities being committed by The Bhagwati CGHS Ltd, yet no action was taken until 14 years later.

It should also be noted that the date for the submission of the report by Sh. N.J. Thomas has been wrongly mentioned as 23.02.2018 instead of 09.11.2004, in the Order for the appointment of Sh. Ajay Chagti, vide letter dated 08.05.2018. Thus, the inaction on the part of RCS for 14 years remained inconspicuous.

Inquiry under Section 61:

An Order dated 26.06.2018, stated that the Additional RCS had passed an order on 15.05.2015 in exercise of powers conferred u/s 61 of DCS Act, 2003 to hold an inspection under

the said Section. The Order pointed out that similar complains have been received from some of the members of the society vide their letters dated 26.03.2018 and 13.04.2018. Besides this a complaint dated 22.05.2018 was also received. Thereby, the department thereby approved the appointment of Shri P.C. Jain, Sr DANICS Officer, as Inspecting Officer u/s 61 of the DCS Act, 2003 to conduct an inspection on the allegations leveled in the complaints by the complainants.

Hence, the Investigating Officer for an Inquiry which was ordered in 2015 was appointed in the year 2018 after a gap of three years. The RCS office could not explain this delay. Only connivance of RCS officers and the Builder can explain this delay.

6. The proceedings of the Committee were also affected as important files related to the Society had been seized by CBI during their inquiry long before the Petition had been filed. This was also reflected in the letter received from RCS that showed that repeated requests were sent from RCS to CBI on 20.09.2018, 05.10.2018, 20.11.2018, and 05.12.2018 to provide authenticated seizure memo in r/o Bhagwati CGHS Ltd, yet no response was received from CBI.

CONCLUSION

1. As noted in the Inquiry Report submitted by RCS in the meeting held on 29.11.2019, the Society had insinuated that it was unable to clear the dues of its former members because of the financial losses it had incurred as an Order from the Department prevented it from enrolling new members. However, at the same time, the Society was observed to have made no earnest efforts in recovering the money it was owed to by many firms. On the contrary, the line of defense offered by the Society in such grave financial matters was that it had tried to reach the said firms over the phone but was unsuccessful.
2. The RCS Order dated 04.10.2018 was passed in the view of the various violations committed by the Society with respect to its enrollment of new members. Yet, the Society chose to blame the Order for its inability to clear its dues, when it should have been making greater efforts to recover the money it is owed from the said firms.
3. The list of irregularities and violations committed by The Bhagwati CGHS Ltd has become longer with each and every proceeding on the matter. However, it was not just the Society that was in the wrong here. Several inadequacies were also revealed on the part of the officers from various Departments implicated in this case.
4. Financial Audit Reports⁷ are documents that had been available for the perusal of the concerned officers even before a Petition was written to the Hon'ble Speaker, yet, there seems to have been no initiation on

⁷ DCS Act, 2003: 60(1): "A co-operative society shall get its accounts audited annually by an auditor selected from the panel prepared by the Registrar in the prescribed manner within the period of * one hundred twenty days from the prescribed date for making up its account for the year."

behalf of the Department to scrutinise the complaints of the aggrieved members further.

5. Even though RCS had shown initiative in raising concerns over the inadequacy of the legal counsel Sh. Shyam Sundar Dalal to put forth their case in the Court of the Financial Commissioner, the red flag should have been raised long before. As a result, a lot of time was lost because of the repeated stay orders that were granted to The Bhagwati CGHS Ltd by the Financial Commissioner.
6. A glaring lack of inter-department coordination was also apparent during the proceedings. The primary files concerning to the case had been seized by CBI long before the Petition had been filed, however, they were still not available for the perusal of any other department, despite repeated requests by RCS. Even the requests for authenticated copies, if not the original documents, remained unheard. Even with respect to the Show Cause Notice⁸ issued to the Society by Delhi Development Authority on 24.05.2019 over concerning its land allotment, no Status Report or copy of response was made available by DDA to RCS, despite the latter's repeated requests.
7. At the end of the day, the aggrieved members of the Society have suffered not only financially but also mental and physically. Even though the Society has assured RCS that it would make efforts in future to fully comply with all the recommendations made by the Inquiry Officer, vide report dated 19.11.2019, the agony that has already been caused to numerous members of the Society must also be accounted for and

⁸ The Show Cause Notice came in the light of the decision of the Hon'ble Spl. Judge of CBI Court, Rohini in the case CBI vs A.K. Chauhan and Ors, 2016 (in respect of the Bhagwati CGHS). The land acquired by the Society in 1997 was based on fraudulently approved freeze list of 300 members through false and forged documents.

efforts must be made by all stakeholders to ensure such blatant violations of the laws and regulations do not happen again.

RECOMMENDATIONS

1. It is clear that the revival of the said Society in the year 1996 was illegal and the RCS and the Officers of RCS Department overlooked blatant irregularities and illegalities while reviving the Society. The Report by Sh. N.J. Thomas dated 09.11.2004 clearly corroborates the findings of this Committee. The Committee recommends departmental proceedings to be initiated against the then-RCS Mr Anshu Prakash and other officers in the RCS office who dealt with this file and were responsible for overlooking these blatant irregularities.
2. Though the Audit Reports of The Bhagwati Co-operative Group Housing Society Limited had been long available for the scrutiny of Registrar Cooperative Society, several financial irregularities had been committed for years, right under their nose. Thus, an internal inquiry must be conducted by the Department to affix accountability so that the defaulting officers can be brought to the book. An Action Taken Report in this respect must be submitted to Delhi Legislative Assembly within 30 days of the adoption of this Committee Report by Delhi Legislative Assembly.
3. During the proceedings of the Committee in other matters, it was found that the Department of Education regularly hires reputed audit firms under Big Four to conduct financial audits of private un-aided schools. The same procedure can be followed by Registrar Cooperative Society in practice to ensure thorough and speedy audits are conducted. This would not only help in resolving the existing complaints with the Department, but also create the much-needed pressure on the Societies to follow all laws and regulations in letter and in spirit. A Status Report for the same must be submitted by Registrar Cooperative Society to

Delhi Legislative Assembly within 30 days of the adoption of this Committee Report by Delhi Legislative Assembly.

4. An Action Taken Report must be compiled by Registrar Cooperative Society with respect to the observations and recommendations made in the Inquiry Report dated 19.11.2019. A complete follow up be done of all the assurances given by The Bhagwati Co-operative Group Housing Society Limited in the light of this Inquiry Report. This Action Taken Report must be submitted by the Department to Delhi Legislative Assembly within 30 days of the adoption of this Committee Report by Delhi Legislative Assembly.
5. To bring transparency in the functioning of the Societies, Registrar Co-operative Society must make it mandatory for all Societies to record their General Body Meetings on video and provide a CD of the same to the Department, failing which they should be penalised appropriately. An Action Taken Report must be submitted to Delhi Legislative Assembly within 30 days of the adoption of this Committee Report by Delhi Legislative Assembly.
6. In the light of the various violations of the Delhi Cooperative Societies Act and Rules, 2003, proceedings must be initiated by Registrar Cooperative Society against the Management Committee of The Bhagwati Co-operative Group Housing Society Limited under whose governance all the irregularities were committed. An Action Taken Report in this regard must be submitted by the Department to Delhi Legislative Assembly within 30 days of the adoption of this Committee Report by Delhi Legislative Assembly.
7. Registrar Cooperative Society must ensure the complete amount that The Bhagwati Co-operative Group Housing Society Limited owes to its

current as well as previous members is returned within 90 days of the adoption of this Report by the Delhi Legislative Assembly. A monthly Status Report for this must be submitted by the Department to Delhi Legislative Assembly, commencing from 30 days after the adoption of this Committee Report by Delhi Legislative Assembly.

8. The Bhagwati Co-operative Group Housing Society Limited must also be penalised by Registrar Cooperative Society for the various violations of the Delhi Cooperative Societies Act and Rules, 2003. An Action Taken Report by the Department must be submitted to Delhi Legislative Assembly within 30 days of the adoption of this Committee Report by Delhi Legislative Assembly.
9. A fresh Inquiry must be conducted by Registrar Cooperative Society to scrutinise and verify all the current members of The Bhagwati Co-operative Group Housing Society Limited to ensure it is in compliance with the freeze list. An Action Taken Report in this respect must be submitted by the Department to Delhi Legislative Assembly within 30 days of the adoption of this Committee Report by Delhi Legislative Assembly.
10. Registrar Cooperative Society must be clarify what action was taken by after the report submitted by N.J. Thomas, Inquiry Officer, vide letter dated 09.11.2004, clearly found several irregularities committed by The Bhagwati Co-operative Group Housing Society Limited. RCS must also explain why a follow up action in this regard was only taken in 2018, 14 years later, with the appointment of Sh. Ajay Chagti as Inquiry Officer under Section 66(1) of the Delhi Cooperative Society Act, 2003, vide letter dated 08.05.2018. Strict action must be taken against the defaulting officers in this regard. An Action Taken Report should be

submitted by the Department to Delhi Legislative Assembly within 30 days of the adoption of this Committee Report by Delhi Legislative Assembly.

11. Registrar Cooperative Society must explain why an Inquiry Officer under Section 61 of the Delhi Cooperative Society Act, 2003, was appointed on 26.06.2018, even though the order for conducting an inspection was passed on 15.05.2015. The delay and gross negligence in this regard must be thoroughly examined and the strictest action must be taken against the defaulting officers. An Action Taken Report should be submitted by the Department to Delhi Legislative Assembly within 30 days of the adoption of this Committee Report by Delhi Legislative Assembly.
12. Departmental proceedings must be initiated against Sh. Anshu Prakash, former Registrar of Co-operative Society, for illegally increasing the freeze strength of The Bhagwati Co-operative Group Housing Society Limited from 150 to 300 members during his tenure in 1996. An Action Taken Report must be submitted by the Department to Delhi Legislative Assembly within 30 days of the adoption of this Committee Report by Delhi Legislative Assembly.
13. The Committee recommends that Registrar Co-operative Societies should investigate all (if any) other cooperative group housing societies where the former Registrar may have increased the freeze strength. An Action Taken Report should be submitted by the Department to Delhi Legislative Assembly within 90 days of the adoption of this Committee Report by Delhi Legislative Assembly.
14. Worthy Chief Secretary of Government of National Capital Territory Delhi should submit an Action Taken Report on the recommendation of

the Committee to Delhi Legislative Assembly within 60 days of the adoption of this Committee Report by Delhi Legislative Assembly.

A handwritten signature in blue ink, appearing to be 'Saurabh Bhardwaj', is enclosed in a light blue rectangular box.

Dated: 30.11.2019

(SAURABH BHARDWAJ)

Place: Delhi

CHAIRMAN

COMMITTEE ON PETITIONS

AENNEXURE I

Photos of the construction site of The Bhagwati Cooperative Group Housing Society Limited, Plot No. 1A, Sector-22, Dwarka, New Delhi 110075, as provided by Registrar Cooperative Society on 02.12.2019:





Photos of the unauthorised Sample Luxury Flat of The Bhagwati Cooperative Group Housing Society Limited, Plot No. 1A, Sector-22, Dwarka, New Delhi 110075, as provided by Registrar Cooperative Society on 02.12.2019:







