**BEFORE REGISTRAR COOP. SOCITIES, OLD COURT BUILDING, PARLIAMET STREET, PARLIAMENT STREET, NEW DELHI-110001**

**ARBITRATION CASE NO. /AR/ARB/2024-25**/6697-6715
Dt :- 15/6/26

IN THE MATTER OF:

Bhagat Coop.Industrial Society Ltd. & Ors. .....Claimants

vs.

The Returning Officer & Ors. ......Respondents

**AWARD UNDER SECTION 71 OF THE DCS ACT, 2003.**

1. The claimants have filed the present petition under Section 70 of DCS Act,2003 to declare the election results of Managing Committee of Delhi State Cooperative Bank Ltd. declared by the Respondent No.1 as nullity and as void abinito and thus be set aside because 99.97% members were kept out from the election process and only 0.03% members were allowed to participate in it and further to determine the harmonious construction between rule 2(f), rule 35 of the DCS Rules, 2007and proviso of Sec. 20(5) and Sec.96 of the DCS Act, 2003.

2. The election result was declared on 02.06.2024 by respondent No.1 and the present petition is dated 12.09.2024 which should have been filed in 30 days as per the provision of Sec.70(4)(iv) of DCS Act,2003

3. No satisfaction is seen to be recorded before admission of the present petition admitted under Sec.70 of Act on 04.11.2025 and it is observed to be filed within a period of its limitation though initially claimants filed an appeal before Delhi Cooperative Tribunal under Sec.112 of DCS Act,2003 to challenge said election which was dismissed vide order dated 22.08.2024 as not maintainable in view of the available remedy by filing claim petition under Sec.70 of DCS Act, 2003 being dispute of the election with liberty to the claimants to invoke remedy available without saying anything on limitation as prescribed in law.

Registrar Coop. Societies New Delhi

4. The copy of order dated 22.08.2024 passed by DCT placed on record reflects that said appeal was instituted by the claimants on 01.08.2024 when the period of limitation of 60 days of filing appeal stood expired on 31.07.2024 from declaration of the election result on 02.06.2024.

5. The dispute though referred for arbitration after admission but recalled thereafter to pass award by the RCS and for the deciding larger issue raised by claimants which is purely legal. The pleadings got complete and after hearing on 05.05.2026 the matter was reserved for the order.

6. The claimants claim to be the members of the Delhi State Cooperative Bank Ltd. The Respondent No.1 was appointed as Returning Officer for conducting election of its successor committee who stated to have issued the Notice dated 08.04.2024 inviting nomination of Authorized Representative of members with election program with the annexures.

7. In the middle of the said notice dated 08.04.2024 the respondent No.1 besides other documents also required submissions of attested copies of the audit reports of Societies for the year commencing from 2007-2008 to 2022-2023 with nominations. The Annexure-1 of said notice is format of an affidavit to be submitted with nominations by each contesting member/society stating about its valid membership of said bank, that it is functional since registration and never became defunct, its accounts for these years are duly audited as per law. In case audited accounts are not available in statement to that effect and name of its current appointed auditor was also required to be mentioned therein.

8. The Annexure-2 of notice dated 08.04.2024 issued by respondent No.1 is a format of a certificate to be issued by auditor certifying that he was auditor of the society for concerned year and conducted its audit.

9. The Annexure-A(part-I) of the said notice dated 08.04.2024 issued by respondent No.1 is format of letter by member society to be submitted on its letterhead to returning officer by name referring to its committee meeting with date wherein member's membership number as decided and authorized to exercise voting right/to contest/propose/second any other member for any post in election to board of directors enclosing certified along with particulars and attested passport size of his photos expressing its wish to be considered in the category as per rule 58(1) of DCS Rules,2007 describes institutional directors of financing bank. The Annexure-A(part-II) is the format of the resolution to be enclosed.

Registrar Co-op Societies New Delhi

10. On 05.05.2024 the returning officer /respondent No.1 published a list of valid nominations of 40 societies/ members of said bank with a list of nominations of the authorized representatives of 40 societies and also published a list of invalid nominations of 21 societies while rejecting nominations of authorized representatives of the 28 societies whose list was also published on same day. The reasons for rejections notified was, not conducting of the audit in three years or more as they became defunct Cooperative Societies as defined in rule 2(f) of DCS Rules,2007 and ceased to be members of Delhi State Coop. Bank Ltd. in terms of Rule 35 of DCS Rules,2007. Further, since these societies have not conducted audit for five consecutive years they are deemed to have been dissolved and ceased to exist as corporate body in terms of proviso of Sec.20(5) of DCS Act,2003. The returning officer invited representations by 5 p.m. on 08.05.2024 with supporting documents. All these lists have been filed with the claim petition as Annexures

11. These claimants submitted identical responses with few documents all through their advocate Sh.R.K. Bharani via email to Returning Officer on 08.05.2024 submitting that they are operational, conducted regular audits and submitted to Delhi State Coop. Bank. It was also submitted that they are not hit by rule 2(f) and rule 35 of the neither DCS Rules,2007nor hit by the proviso of Sec.20 (5) of the DCS Act,2003. It was further stated by them that declaration regarding any society as defunct can only be done by RCS who has to follow provision of Sec.96 of Act as no other person has authority to declare society as defunct who is required to submit to RCS and get permission for such declaration. It was further submitted that all of them are eligible to cast their vote in forthcoming election of Delhi State Coop. Bank Ltd. and requested to allow all of them to participate in the election of its Board of Directors. A print of email and copies of attached responses filed as Annexures. In responses of the claimants, Returning Officer informed via email on 09.05.2024 for personal hearing on 10.05.2025.

12. In the claim petition it is submitted that Hon'ble High Court in a writ petition filed by said bank W.P. (C) No.1072/2023 vide its order dated 12.12.2023 appointed Justice V.K. Jain (Retd.) a former judge of Delhi High Court as Chairperson of Committee to carry out the membership audit of Societies and thereafter to supervise the conduct of election of bank, hasn't been done and the RO appointed by RCS issued agenda without any scrutiny and audit of membership of societies of bank.

Registrar Co-op Societies New Delhi

13. It is also submitted by claimants that they made representations before audit committee headed by Justice V. K. Jain (Retd.) and informed that complainants Societies are live and functioning, carried out the audits for the period already allowed and waiting the pending audits to carry out for its permission from the RCS and same were rejected vide two separate communications due to non-carrying out of the audit for five constitutive years at a stretch thus the claimants societies are defunct.

14. It is further submitted in claim petition that non-carrying out the audits for 5 or more consecutive years was due to not granting of permission to them by RCS for audit/s who suspended the provisions of sec. 60 of DCS Act,2003 and amounts to infringement of fundamental rights of claimants societies guaranteed by Constitution of India. No supporting document/s are filed by claimants with their petition to establish such allegations against RCS in whose absence same cannot be accepted which invariably amounts to an admission on their part that none had conducted audit of their annual accounts of receipts and expenditures by panel auditor as per mandatory provision of Sec.60 of DCS Act.

15. In the grounds of petition claimant submitted that by calling audited accounts for the 15 years has resulted in to deterrence and prevention of thousands of members of said bank and returning office allowed 81 members to participate in voting which appears to be motivating but underscore such contention when interpretation of law is sought to be made in grounds of claim petition as they submitted that provisions of sec. 96 of DCS Act, 2003 prevails over proviso of Sec.20(5) of DCS Act,2003 including rule 2(f) and rule 35 of DCS Rules, 2007 as their wordings are ambiguous and in conflict with Sec.96 being later in Act will prevail and making of proviso in Sec. 20 of act is ultra vires. Such grounds cannot be taken in arbitration being not a dispute of facts but settled legal position and an Act of legislature which this office is not competent to comment upon nor same will fall within scope Sec.70 of Act. However, there is no conflict between these provisions of law which are independent and distinct as the proviso of Sec.20(5) is a deeming provision for which no order or proceeding is required and Sec.96 is enabling provision for cancellation of the registration of Societies on stipulated conditions made by legislature which falls within its domain

16. It is seen that most of other grounds in claim petition aren't related to claimants nor raised in the response submitted through their advocate to returning Officer which were placed before the committee headed

Registrar Co-op Societies * New Delhi *

by HMJ VK Jain (Retd.) who granted due opportunity to claimants on their appearance before it on 10.05.2026 and after due deliberation of submissions while affording personal hearing to them and discussed each and every submissions and dealt with legal provisions claimed to be not applicable to them, have been thoroughly dealt with factually as well as legally with their applicability in the case of the claimants in minutes of meeting dated 10.05.2025 placed on record by claimants which are is in the form of a decision and has not been challenged by them before any legal forum as observed by Hon'ble High Court in order dated 03.11.2025 in writ petition filed by claimants themselves.

17. The said decision of Election Committee of Delhi State Co-operative Bank Ltd. which is in a form of a minutes of meeting before whom the claimants appeared through their advocate and in-person as mentioned in the paras 14 to 16 after submission of written responses with oral submissions made and recorded in minute justifying the rejection of their nominations on the valid grounds which claimants themselves admitted that their audit for more than 5 years could not be conducted and squarely brought them in proviso of Sec.20(5) of DCS Act,2003 a deeming provision of their non existence for which no proceeding was required to declare them as defunct as claimed. They incorrectly relied upon Sec. 96 of DCS Act which pertains to dissolution of cooperative societies by the Registrar. In present case claimants didn't possess the qualifications as required to be declared by them in different forms and affidavits as required by Respondent No.1 which claimants didn't submit as none was eligible to contest nor to propose any contestants.

18. It is for these reason claimants nominations were correctly published to be invalid in the lists on 05.05.2024 by the respondent No.1. The right to vote is distinct from right to contest elections in Cooperative Societies being subjected to the eligibility criteria as prescribed in the DCS Act, 2003 and the rules made there under. However, the claimants were not entitled to vote being no nest by their existence as the ceased to be the members of Delhi State Coop. Bank by operation of law. There was no occasion for respondent No.1 to accept nominations of claimants who ceased to be members of said Bank being ineligible. Hence, nominations of claimants were rightly rejected on their very existence as a non legal entities as body corporate within the meaning of Sec.43 of DCS Act,2003 who cannot file present claim petition. It is for this reason the claimants did not challenge decision of election Committee on 10.05.2024 which is final and binding on all of them.

Registrar Co-op Societies New Delhi

19. The further reliance placed by claimants on rule 2(f) and rule 35 of DCS Rules,2007 is misplaceed to challenge declared election result of Delhi State Cooperative Bank Ltd. as later part of the rule 2(f) makes such societies as defunct whose accounts have not been got audited since three years or more which the claimants not disputed. Similarly, purport of the rule 35 of DCS Rules,2007 is not as projected by the Claimants in present petition requiring them to be notified by Society and further declared by RCS to be defunct whose middle part clearly says that in case of a cooperative society which has become defunct or deemed to have become defunct under Act and these rules or declared so by the Registrar as such the said cooperative Society shall cease to be member of Federal/Financing/Apex Society. Hence, no declaration was required to be made by RCS for claimants on cessation of their membership in bank who were deemed to be defunct as society as per the proviso of Sec.20(5) of DCS Act,2003 for not conducting the audit

**DECISION**

20. In view of the facts and the legal position as discussed in present order the election of Managing Committee of Delhi State Coop. Bank Ltd declared on 02.06.2024 by the respondent No.1 can't be declared null and void in present matter since it was validly conducted as per law.

Accordingly, the present claim petition is hereby dismissed and the award is hereby under passed in favor of the respondents and against the claimants.

The files of present matter be consigned to record room and the present award is directed be uploaded on the official website of the Department and its certified copies be sent to the claimants and all the respondents.

Given under my hand and seal on this day of June, 2006.

Registrar Co-op Societies * New Delhi *

**KRISHNA KUMAR SINGH (IAS)**
**REGISTRAR COOPRATIVE SOCITIES**