

MINUTES OF THE RULE 90 COMMITTEE MEETING HELD ON 02.08.13 FOR CONSIDERATION OF THREE LEFT OUT MEMBERS OF JAYPEE CGHS.

The Jay Pee CGHS (Regn. No. 654) Plot No. 2, Sector 22, Dwarka, New Delhi was registered at S.No. 654 on 22-09-1983 (Ref page 3/N). The present proposal is for clearance of membership of 03 left-out members;

PROPOSAL FOR CONSIDERATION OF THE RULE-90 COMMITTEE:-

1. **FREEZE STRENGTH:-** Freeze strength of the society is 256. The society has 256 dwelling units. 239 cases were already cleared on 15.07.11, 12 cases were cleared on 19.01.12 and 2 cases were cleared 10.07.13.
2. **Resignation & Enrolment:-** The society has 568 enrolments and 612 resignations from the year 1984-85 to 2003-04 as detailed at 196/N.
3. **Transfer case:-** Not applicable in this proposal.
4. **Election:-** Last election was conducted on 29.08.10. Sh. S.K. Bangia, Retired AGM, SBI has been appointed as Returning Officer to conduct the election vide this office letter dated 01.07.13 (284/C).
5. **Audit position:-** Audit completed upto 2010-11.
6. **AGM:-** Last AGM was held on 23.09.12.
7. **Architect's Certificate:-** Already submitted at the time of initial proposal.
8. **Completion Certificate:-** Already submitted at the time of initial proposal.
9. **Loan Position / Dues:-** Nil.
10. **Expulsion cases:-** Nil.
11. **Category of Flats:-** The society has eight categories of flats in the following manner:-

SL.NO.	CATEGORY	NO. OF FLATS
1.	A-1	21
2.	A	21
3.	B	49
4.	C	56
5.	D1	42
6.	D	14
7.	E	28
8.	F	25

12. **Court cases:-** The society has informed that no court case has been filed by any of the members or ex members. However, one case is listed in the Dwaraka Courts filed by one Sh. Anil Jain, who claims himself to be a member of the society. Original Audit Report for the year 2002-03 is to be submitted in the Court on the next date of hearing i.e. 01.10.13.

13. **Individual Affidavits:-** Individual Affidavits of the concerned three members submitted.

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14. **Vacancy:-** Nil.

15. **Detained cases:-** Nil.

16. **Affidavit-'D' & Form-E :-** Already submitted at the time of initial proposal.

17. **Genuineness of Membership:-** The society has submitted that they have obtained PAN details, Verification certificates Income Tax returns from the members that to verify their genuineness.

18. **Non submission of verification certificate:-** N.A.

19. **Publication in newspapers:-** Already published on 30.06.08 at the time of initial allotment.

20. **Revised proposal in case of Objection:-** N.A.

21. **Affidavit in Form G:-** Already submitted at the time of initial proposal.

22. **Affidavit in Form H:-** Already submitted at the time of initial proposal.

23. **Original records:-** The original records in r/o these three members produced by the society have duly been verified by the Assistant Registrar (S/W).

24. **Members enrolled in violation:-** Not applicable in this proposal.

25. **Any other information:-** Nil.

26. **List of members proposed to be detained:-** Nil.

27. **List of members proposed for consideration:-** The following three cases are submitted before the Rule-90 Committee for considerations as per details mentioned against each :-

SL. NO.	M.S. NO.	NAME OF THE MEMBER	PARTICULARS
01	816	MRS. RITU GROVER	Both members are Wife & Husband having membership in the same society. As per records furnished by the members through society, Mrs. Ritu Grover has an independent income and paid all the dues (Land money and construction cost) to the society from her own income. The same has been verified from the records i.e. Bank statement of Smt. Ritu Grover (01.04.13 to 31.12.12-38-71/C of linked file), Income Tax Returns for the period from 2002-03 to 2012-13 (72-96/C of the linked file) and certificate from the Auditor certifying that she has made the dues to the society entirely from own source of income.
02	818	MR. MANISH KUMAR GROVER	
03	832	MRS. SUTAPA BASU & COL. SATCHIT KUMAR BASU	Both are Wife and Husband having joint membership in this society. Col. Satchit.Kumar Basu is also having membership in 'Dakshinayan' EPDP CGHS. He has resigned from the joint membership from this society on 17.01.13, which was approved by the MC vide minutes dated 27.01.13. Mrs. Sutapa Basu has an independent income and paid all the dues to the society from her own income. Bank statements and Income Tax Returns of Mrs. Basu for the period 2001-02 to 2012-13 have also been submitted. Mrs. Basu was also sanctioned home loan from IDBI Bank. The same has been verified from the records. Certificate from the Auditor certifying that she has made the dues to the society entirely from own source of income is also submitted.

The RCS has approved these cases with the remarks that 'if members have filed bank statements and Income tax returns, there is no ground to believe that there are holding membership 'Benami'. Hence these cases may be placed before the Rule-90 Committee. (286/C).

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I, A.K. Verma, Assistant Registrar (South-West Zone) have personally verified the documents as per Schedule-VII and found them to be correct and true.

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(A.K. VERMA)
ASSTT. REGISTRAR (S/W)

Decision of the Rule-90 Committee:- These three cases were discussed in detail in the light of the following judgments / orders:-

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A) (1) Hon'ble High Court Order dated 29.02.96 in the case of Alimuddin v/s the RCS, in which the Hon'ble High Court observed that ...The provisions of Rule 25 in so far as they disqualify persons from being members of the co-operative society need to be strictly construed and unless any person is clearly covered by the terminologies which are used to disqualify, no disqualifications should attach to such a person. The clear intend of this rule is, therefore, that those who hold properties "Benami" either in their wife's name or in the name of their dependent children, were not intended to be permitted to become a member of the Co-Operative House Building Society..."

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(2) Hon'ble High Court order in the case of WPC No.8426/2008 Dr. J.K. Gupta v/s RCS & Ors. Judgment delivered on 22.12.2009. Case is regarding wife of a member purchased another property. Petitioner stated his wife is an Income tax payee and the property in question was purchased on her own funds in her own income. The income tax returns and other documents were also filed. Quoting the other orders of Hon'ble Court, it was ordered that 'we are of the view that petitioner does not incur any disqualification under Rule 25(1)(c) (i) of the Rules.

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(3) Hon'ble High Court Order in Krishan Kumar Sachan v/s Lt. Governor dated 10.08.09. it was decided '...even assuming that the wife of the petitioner is the owner of the foresaid plot, she would be regarded as the owner in her own right and her own name and the same can't be said to be disqualification of the petitioner, as is alleged.."

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(4) Hon'ble High Court Order in Ranjeet Kaur v/s RCS & Ors-WPC-2607/2011 the Hon'ble High Court has observed that '... in the said judgment that the disqualification incurred by a person where a spouse owns a residential house or a flat, in the name of the spouse or dependent children, implies where such a flat is held Benami. Thus, on a construction of Rule 25(1)(c) (i) of the Delhi Co-Operative Societies Rules, 1973 (the said Rules for short) , disqualification is incurred only if the spouse holds the property Benami. Insofar as the aforesaid legal position is concerned, there can be no doubt about the same. We are thuyts of the view that what has to be examined is as to whether the petitioner has made payments for the flat in question out of her own income and funds or whether this is a flat owned in her name as Benarni of her husband..'

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(5) Case No.RCS/47/SW/GH, 220-228 dated 29.01.13 in the matter of Sh. R.A. Aggarwal v/s Sh. N.K. Srivastava the RCS has cleared the membership vide observation ~~that~~ "It is clear from the evidence produced before this forum that acquisition of ~~flat~~ no.B-51, Hilansh CGHS Ltd. By Smt. Sneha Agarwal was made out of her own income and the said property is not being held in benami by her. This case is squarely covered by judgment of the Hon'ble High Court in 'Allimuddin v/s RCS & Others. I, therefore, hold that Sh. R.A. Agarwal does not attract any disqualification u/r 25(1)(c)(iii) of DCS Rules, 2007 for being member of Sadbhawana CGHS Ltd., because of membership of his wife in Hilansh CGHS Ltd."

(6) Case No.RCS/SW/GH/12-13/637-644 dated 19.07.13 in the case of Sh. S.K. Jain (Member of Sadbhawana CGHS) and Smt. Sangeeta Jain (Member of Attam Vallabh CGHS), the RCS has cleared the case vide his detailed order mentioning that 'as regards disqualification of Smt. Sangeeta Jain, in view of the documents in support of her being a qualified engineer with independent source of income there appears to be no ground to believe that she is holding membership in Attam Vallabh CGHS Ltd. benami. In my considered view, it is a case squarely covered by the judgment of the Hon'ble High Court of Delhi in WPC No.5551/1993 in the matter of Almuddin v/s RCS & Ors. In the order it was further directed to place the case before the Rule-90 meeting.

In view of the abovementioned cases and confirmation from the Auditor certifying that the payments to the society (Land money and construction money) in r/o Smt. Ritu Grover, Manish Grover and Smt. Sutapa Basu & Col. Satchit Kumar Basu have been made from their individual own source of income, the committee has cleared these three cases.

1. The Secretary (Co-Operation)/
Registrar Co-Operative Societies.


Chairman

2. Addl. Secretary (Law)


Member

3. Addl. Registrar Co-Op. Societies


Member

4. Dy. Secretary (Finance)


Member