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* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Date of Decision: 9th April, 2026**Uploaded on: 9th April, 2026*+ W.P.(C) 17919/2025 and CM APPL. 74115/2025, 79704/2025
16022/2026, 22769/2026

AMAR JEET & ORS.

.....Petitioners

Through: Mr. A.K. Singla, Sr. Adv. with Mr. R.
K. Gupta and Mr. Arun Kumar,
Advocates (M: 8448126500).

versus

REGISTRAR COOPERATIVE SOCIETIES & ANR.Respondents

Through: Ms. Harshita Nathrani, Advocate and
Mr. Sameer Vashisht, Standing
Counsel (Civil), GNCTD.
Ms. Sonia A. Menon, Advocate for R-
3 to 8 (M: 9810865468).**CORAM:****JUSTICE PRATHIBA M. SINGH****JUSTICE MADHU JAIN****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioners under Articles 226 and 227 of the Constitution of India, *inter alia*, assailing the impugned order dated 12th November, 2025 passed by the Registrar Co-operative Societies (*hereinafter*, 'RCS').
3. *Vide* order dated 12th November, 2025, Respondent No.2- Mr. Ram Kumar Savant was appointed as the Administrator of the Society.
4. The order dated 12th November, 2025 was stayed by this Court on 26th November, 2025 in the following terms:



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“3. *Mr. Sameer Vashisht, Standing Counsel for Government of NCT of Delhi (GNCTD) accepts Notice on behalf of respondent nos.1 & 2.*

4. *We have perused the impugned order and also the Show Cause Notice and the reply tendered by petitioner to the Show Cause Notice.*

5. Having regard to the fact that the impugned order is a non-speaking order, as the contentions of the petitioner are not dealt with therein, we deem it appropriate to stay the same until further orders.

6. *Returnable on 8th January 2026.*

7. *Order be uploaded on the website of this Court.”*

5. The brief background is that the Petitioners, namely Mr. Amarjeet, Mr. Ramesh Varadarajan, Ms. Mini Jha, Mr. Vinod Bhatia and Mr. Kamal Jeet Singh are part of the Managing Committee of the Fakhruddin Memorial Cooperative Group Housing Society, Plot No. 18, Sector-10, Dwarka, New Delhi (*hereinafter, ‘the Society’*), are aggrieved by the appointment of the Administrator, *vide* the impugned order, on various grounds. The Petitioners are part of the Managing Committee of the Society. Complaints were filed against the Managing Committee raising various allegations. The said allegations include:

- i) Holding of an SGBM (*hereinafter, ‘Special General Body Meeting’*) on 8th June, 2025 which is on the festival of Eid-Ul-Juha despite the directions of RCS;
- ii) Increase of maintenance charges by the Managing Committee from Rs. 2300/- to Rs.3200/-;
- iii) Disqualification of certain members, who had been elected to the Managing Committee, as they were not the primary members of the Society;



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- iv) Audits not being conducted in time;
 - v) Appointment of a Returning Officer and the elections fixed for 14th December, 2025, wherein there were allegations of the electoral roll being manipulated;
6. After considering these allegations, the order dated 12th November, 2025 was passed, wherein the RCS came to the following conclusions:

“Upon careful examination of the records, complaints and submissions of the society, it is evident that the Managing Committee of Fakhruddin Memorial Cooperative Group Housing Society Ltd has failed to discharge its statutory duties in accordance with the provisions of the Delhi Cooperative Societies Act, 2003 and the Delhi Cooperative Societies Rules, 2007. The Committee has violated the directions issued by this office under Section 42 of the Act, conducted the Special General Body Meeting in defiance of official orders, and unilaterally revised the maintenance charges without approval of the General body in contravention of Section 89 and 93 of the DCS Act, 2003 and Rule 102(2) & (3) of the DCS Rules, 2007. Further, the inclusion of non-primary members in the Managing Committee is in violation of Section 25(b) of the Act read with Rule 22(1) of the Rules. The above acts reflect continued negligence, non-compliance, and disregard for cooperative principles and lawful directions.

In this context, reliance is placed on the settled interpretation of Section 25(b) of the DCS Act, 2003 read with Rule 22(1) of the DCS Rules, 2007, wherein the Hon'ble Delhi High Court has held that the right to vote or contest can be exercised by a joint member only in cases of legal inability of the primary member and not otherwise. Since the inclusion of such joint members in the Managing Committee is contrary to law, the election



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and functioning of the present Committee stands vitiated.

In view of the above facts and in the light of the provisions contained under Section 37(1) of the Delhi Cooperative Societies Act, 2003, the Managing Committee of Fakhruddin Cooperative Group Housing Society Lid. is hereby superseded with immediate effect .

Accordingly, Sh. Ram Kumar Savant, Grade-I Officer, Government of NCT of Delhi, is hereby appointed as the Administrator under Section 37 of the Delhi Cooperative Societies Act, 2003, to manage the day-to-day affairs of the society, and ensure due compliance with the statutory provisions of the Act and the Rules made thereunder. The Administrator shall be paid a remuneration of Rs. 10,000/- (Ten Thousand only) per month, which shall be borne from the society's funds. It is also directed that the Administrator shall extend full cooperation to the Returning Officer, Sh. Shailah Gupta, for conducting free and fair elections scheduled to be held on 14.12.2025 in accordance with the provisions of the Act and the Rules.

7. As can be seen from the above order, the RCS came to the conclusion that the Society had not discharged its statutory duties in accordance with law and accordingly, Mr. Ram Kumar Sawant, Grade-I officer, Government of NCT of Delhi was, therefore, appointed as an Administrator, to manage the day-to-day affairs of the Society.

8. Aggrieved by the said order dated 12th November, 2025, the Petitioners had preferred the present petition. Thereafter, the court *vide* order dated 26th November, 2025, had stayed the impugned order dated 12th November, 2025 in terms as extracted above in paragraph 4.



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9. During the pendency of this petition, an application being *CM APPL. 77567/2025*, had been filed by various applicants who were aggrieved by the interim order dated 26th November, 2025, seeking impleadment in the present petition. The said applicants are Ms. Meenu Chopra, Ms. Renuka Verma, Ms. Susheela Verma, Mr. Manish Mahajan, Ms. Bindu Chaudhary and Ms. Sarita Singh.

10. The allegation in the said application was that the order dated 12th November, 2025 had not been fully attached with the present petition and it was also alleged that the persons who are presently on the Managing Committee of the Society, are not the primary members of the Society.

11. According to the said Applicants, the electoral roll was also manipulated by the Managing Committee of the Society, so as to ensure that such persons, who are not qualified, are permitted to contest. Similar allegations have also been raised by the RCS, which has sought vacation of the interim order dated 26th November, 2025.

12. The Court has heard Mr. A.K. Singla, Id. Sr. Counsel for the Petitioners, Ms. Harshita Nathrani, Id. Counsel for RCS and Ms. Sonia A. Menon, Id. Counsel for Respondent No.3

13. After hearing the Id. Counsels for the parties, it becomes clear that the term of the present Managing Committee, which is conducting the affairs of the Society, has already come to an end on 10th December, 2025.

14. Accordingly, fresh elections have to be conducted. For the said purpose, a Returning Officer has to be appointed. However, the issue concerning the manipulation of the electoral roll, as to whether those members who are not primary members can either vote/contest or not has to be considered.



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15. On this issue, Id. Counsel for the applicants/intervenors have relied upon a decision of the Division Bench of this Court in *Writ Petition (Civil) 3495/2019* titled '*Sheetal Vihar Cooperative Group Housing Society Ltd. and Ors. v. The Registrar Cooperative Societies and Ors.*' dated 5th April, 2019, wherein the Court has categorically held as under:

“4. We have heard the submissions of Mr.Munjal and considered the same. We have also perused the impugned order and the other documents placed on record as also the legal position emerging from the relevant provisions of the Delhi Cooperative Societies Act, 2003 (hereinafter referred to as “Act”) and the Rules.

As would be seen, the impugned order itself observes that the appointment of the petitioner nos.2 and 3 was in violation of Section 25(b) and 35(6) of the Act. Section 25 of the Act insofar as it is relevant, reads as follows:-

“25. Votes of members Every member of a co-operative society shall have one vote in the affairs of the co-operative society: PROVIDED that

– (a) xxx xxx xxx

(b) A nominal or associate or joint member shall not have the right of vote

(c) xxx xxx xxx.”

5. The admitted position is that the petitioner nos.2 and 3 are joint members and they are not primary members of the petitioner no.1/society. Thus, on the face of it, the petitioner nos.2 and 3 did not have the right to vote at any election of the petitioner no.1/society. It is well settled that a member who has no right to vote, cannot also offer his candidature to any executive post in an organisation. 6. Sub rule (1) of Rule 22 permits admission of joint members along with the primary member, subject to certain conditions. The said rule reads as follows:-

“22. Procedure for admission of joint member, minor



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and person of unsound mind and inheriting the share or interest of deceased member

(1) A co-operative society may admit joint member provided the proposed joint member make a declaration in writing that the person whose name stands first in the share certificate shall have the right to vote and all other rights shall be enjoyed jointly and severally and liabilities shall be borne jointly and severally by them as provided under the Act, the rules and the bye-laws: PROVIDED that in case of inability of the person whose name stands first in share certificate, he/she can authorize the other to vote and attend the meeting on his behalf. PROVIDED FURTHER that in case of cooperative group housing/house building society, the joint membership shall be restricted to only person in first degree blood relationship.

(2) In accordance with the procedure laid down in the bye-laws and these rules for admission of any member, a co-operative society may admit minor and person of unsound mind inheriting share or interest of deceased member as its member through their legal representative or guardian respectively. The members so admitted will enjoy such rights and liabilities as are laid down in the bye-laws of the co-operative society that are consistent with the Act and rules.”

(emphasis supplied)

*7. Thus, as per the first proviso to Rule 22(1), the right to vote conferred upon joint members is only in case of ‘inability’ of the person whose name stands first in the share certificate to act, and not otherwise. The ‘inability’ spoken of in the first proviso to Rule 22(1) of the Rules is a legal inability. It does not cover voluntary renunciation or transfer of the right of the primary member of his right to vote as a member of a society. **The same relates to inability which the primary members may suffer from on account of minority, insanity or other legal disability. This is clear not only from the heading of the Rule, but also from sub-rule***



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(2). In fact, Sub-Rule (1) clearly provides that the joint member has to furnish a declaration that the person whose name stands first in the share certificate shall have the right to vote. If the first proviso to Rule 22(1) were to be interpreted broadly – to mean that ‘inability’ includes a conscious decision of the primary member to voluntarily give up or cede his/her right to vote in favour of the joint member, it would mean that any member would be able to authorise the joint member to vote and attend meetings on his/her behalf. But such an interpretation would clearly be contrary to proviso (b) of Section 25 of the Act taken note of hereinabove.

There is no gain saying that rules are subordinate to the provisions contained in the Act, and cannot survive if they are in contravention of the statutory provisions. Thus, the only way in which the first proviso to Rule 22(1) can be saved from being declared ultra vires, the Act, is to read it meaningfully, i.e., to limit the scope of the phrase ‘inability of the person’ to mean legal ‘inability’ or ‘disability’. Thus, it clearly emerges that the petitioner nos.2 and 3 were not entitled to vote, much less, contest in the elections for the post of President and Secretary in the petitioner no.1/society.

8. Reliance placed by Mr.Munjhal on our decision in Krishna Devi (supra) is misplaced. The facts of that case are materially different. Moreover, proviso (b) to Section 25 of the Act was neither referred to, nor considered in the said decision since its application did not arise for consideration.

9. The submission of Mr.Munjhal that the impugned order is illegal, since the same has been issued without authority by the Registrar of Cooperative Societies, does not motivate us to invoke our discretionary jurisdiction under Article 226 of the Constitution of India, since it is clear to us that no injustice has been done to the petitioners with the passing of the impugned



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order. The petitioners cannot run away from the fact that the petitioner nos.2 and 3 were not entitled to contest the elections, and be elected as President and Secretary of the petitioner no.1/society. This Court is not obliged to exercise its discretionary jurisdiction under Article 226 of the Constitution of India in every case, even if there is some irregularity pointed out by the petitioner. We are, therefore, not inclined to interfere with the impugned order.

10. *The writ petition is dismissed in the above terms along with the pending application.”*

16. In terms of the aforesaid judgement, the clear dictum of the Court is that the primary members would be entitled to vote and in case of joint membership a declaration has to be furnished in favour of the person whose name stands first in the share certificate. Only then the said member would be entitled to vote and contest as well.

17. The submission of Mr. A.K. Singla, Id. Sr. Counsel in response to the decision in *Sheetal Vihar Cooperative Group Housing Society Ltd. and Ors. (Supra)* is that one of the persons who is contesting the elections, *i.e.* Petitioner No.1-Mr. Amarjeet, is a primary member whose name stands first in terms of the share certificate dated 18th August, 2022. In this regard, reliance is also placed upon the sale deed dated 4th June, 2014, which has been executed in favour of the Petitioner No.1 and his wife.

18. At this stage, this Court is not inclined to go into a factual analysis as to who is the appropriate primary member or not. Needless to add, in terms of the decision in *Sheetal Vihar Cooperative Group Housing Society Ltd. and Ors. (Supra)*, only primary members can contest and can cast the vote.

19. Pertinently, the elections of the Society have to be held now.



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Accordingly, this Court deems it appropriate to appoint an independent Observer/Returning Officer to finalise the electoral roll and oversee the conduct of the elections.

20. Mr. S.S Ahluwalia, Advocate who is present in Court, is appointed as the Independent Observer/Returning Officer for the conduct of the elections of the Society. The said Observer/Returning Officer's mandate is as follows:

- i) The Observer/returning Officer shall finalise the electoral roll in the precincts of the Society. In the event of any challenge to the membership of any particular individuals, the Observer/Returning Officer shall examine the relevant documents and take a decision in accordance with the judgment in *Sheetal Vihar Cooperative Group Housing Society Ltd. and Ors. (supra)*;
- ii) After finalising the electoral roll, the agenda for the election schedule shall be announced by the Observer/Returning Officer;
- iii) Thereafter, the nominations shall be filed by only those candidates whose names appear in the finalised electoral roll;
- iv) The elections shall then be conducted in a free and fair manner, as per the convenience of all the members;
- v) For the aforesaid purposes, in the event that any meeting is required to be convened by the Observer/Returning Officer within the Society, the same shall be duly held;
- vi) The records of the Society shall be taken over by the Observer/Returning Officer on **11th April, 2026 at 11.30 am**. The RCS shall depute an official to assist the Observer/Returning Officer;
- vii) The records of the Society shall not be tampered by the present



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Managing Committee, in any manner, and shall be kept in safe custody.

21. For the aforesaid purpose, Captain Vivek Chopra along with Petitioner No.1-Mr. Amarjeet shall visit the office of the Society today *i.e.*, 9th April, 2026 and shall install a new lock on the safe. The key thereto shall thereafter be handed over to Mr. S.S. Ahluwalia.
22. The fee of Mr. S.S Ahluwalia, the Observer/Returning Officer is fixed at Rs. 2.5 lakhs and shall be borne by the Society.
23. Insofar as the impugned order dated 12th November 2025 is concerned, the Court has perused the same and there are sufficient reasons in the said order. Since the Court has appointed an Observer/Returning Officer today, the merits of the order have not been gone into.
24. The petition is disposed of in these terms. All pending applications, if any, are also disposed of.
25. All rights and remedies of the parties pertaining to the elections, are left open.

**PRATHIBA M. SINGH
JUDGE**

**MADHU JAIN
JUDGE**

APRIL 9, 2026

MR/SM