

Minutes of the meeting held on May 10, 2024

Following were present in the meeting :

1. Justice (Retd) Sh. V.K. Jain Chairman of the Committee
2. Sh. A.K. Kaushal, DANICS (Retd.) Returning Officer
3. Smt. Anita Rawat Managing Director of the Bank
4. Sh. Anil Kumar Bansal Asstt. General Manager (Banking), DSCB Ltd.
5. Sh. R.K. Kadyan Asstt. General Manager (Establishment), DSCB Ltd.
6. Smt. Nidhi Chandra Asstt. General Manager (Audit & Inspection) DSCB Ltd.
7. Sh. Surinder Narang Asstt. Registrar (Banking) O/o the RCS
8. Sh. Vishwas Gautam Junior Assistant, O/o the RCS
9. Sh. Jai Dev Sahoo Assisting the R.O. in his personal capacity
10. Sh. Ashok Gupta Assisting the R.O. in his personal capacity

1. Vide notice dated 08/04/2024 issued by the Returning Officer, nominations of Authorized Representatives of the societies, which are members of The Delhi State Cooperative Bank Ltd. , were invited in terms of Clause 3 of Schedule – II of DCS Rules 2007. The said societies were inter-alia also required to submit attested copies of their respective audit reports for the years 2007-08 to 2022-23.
2. The requirement to submit to audit reports of the member societies was stipulated considering the following statutory provisions:

THE DELHI CO-OPERATIVE SOCIETIES ACT, 2003

Section 20 (5) (to the extent it is relevant) :

Provided that in the case of a co-operative society which has not conducted audit or annual general body meeting for five consecutive years or has no fixed assets and

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outside liabilities excluding share money of the members, such society shall be deemed to have been dissolved and shall cease to exist as corporate body after the expiry of the said period of five years.

Section 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.

Rule 2 (f) reads as under:

"Defunct Co-operative Society" means a co-operative society which has not carried on business for three consecutive years or its accounts have not been got audited since three or more years.

Delhi Cooperative Societies Rules:

Rule 35 of DCS Rules (to the extent it is relevant) :

Cessation of membership

In case of a co-operative society which has become defunct or deemed to have become defunct under the Act and these rules or declared so by the Registrar as such the said co-operative society shall cease to be a member of the Federal /Financing/Apex society.

Rule 38 :

Closing of Accounts: - Every co-operative society shall maintain accounts and books for the purpose of recording business transactions by it and close them every year on 31st March, by the 30th April. Each closing entry in the cashbook, in each ledger account shall be signed by the president or secretary or the treasurer or any other authorised officials of the society authorised by the committee in this behalf. The closing balances, which are thus authenticated, shall be carried forward to the following year commencing on the 1st April. For the purpose of calling the annual general body meeting as provided in section 31 of the Act, the date fixed for making up the accounts, for the year shall be 30th April of each year. The closing accounts shall be signed by the secretary or the treasurer or any other officers of the society/bank authorized by the committee.

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3. It would thus be seen that a cooperative society is required to get its accounts audited annually within 120 days from the prescribed date from making up its accounts for the year.
 4. As pointed out by the Assistant Registrar, RCS, in view of the requirements of Section 60 (1) of DCS Act 2003 read with Rule 38 of DCS Rules, a cooperative society is required to get its accounts audited within 120 days computed from 30th April of the closing financial year. For instance, the accounts for the year 2007-08 were required to be got audited within 120 days computed from 30.04.2008, which expired on 28.08.2008. Therefore, if a society has not got its accounts audited for a particular year, by the 28th August of the closing financial year, it would be a breach of the statutory requirement laid down in the Act and Rules.
 5. Since DCS Rules 2007 came into force on 19.10.2007, the requirement for getting accounts audited in terms of the Act and the Rules got crystallized with effect from the financial year 2007-08 onwards.
 6. If a society did not get its accounts audited for 5 or more consecutive years, commencing 2007-08, such a society shall be deemed to have been dissolved and it shall cease to exist as a corporate body, after expiry of 5 years of consecutive defaults. The relevant date for identifying the default will be 28th August of the closing year. It is informed that with respect to audit of accounts for the year 2019-20, the last date for auditing the accounts was extended by the Hon'ble Lieutenant Governor of Delhi up to 31.10.2020 and the time for submission of audit report for 2020-21 was extended till 15.01.2022.
 7. Once a society fails to conduct its audit for 5 consecutive years or more, its dissolution in terms of proviso to sub-section (5) of Section 20 of DCS Act 2003 is automatic and by operation of law. Such a society does not exist anymore, as a corporate body, after expiry of the said period of 5 years. No order from the RCS is envisaged in the Act for the deemed dissolution and deemed cessation of such a society. If a society is deemed to have been dissolved and its ceases to exist as a corporate body, it cannot continue to

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be a member of The Delhi State Cooperative Bank Ltd., its very existence having come to an end on expiry of period of 5 years as envisaged in the proviso of Section 20 (5) of DCS Act 2003.

8. Coming to Rule 35 of DCS Rules, it is evident from a bare perusal of the Rule itself that if a society has become defunct or is deemed to have become defunct under the Act and Rules or is declared so by the Registrar, it automatically ceases to be member of a Federal /Financing/Apex society. Thus, a society which has become defunct or is deemed to have become defunct, does not continue to remain a member of any Federal /Financing/Apex society. It ceases to be such a member. Since The Delhi State Cooperative Bank Ltd. is a Financing Society, its main function being financing, the societies which have become defunct or are deemed to have become defunct within the meaning of DCS Act 2003 and DCS Rules 2007 ceased to be the members of The Delhi State Cooperative Bank Ltd, such a cessation being automatic by operation of law. The Bank does not have an authority to allow such a society to continue as its member.
9. In case a society , which is deemed to have been dissolved and has ceased to exist as a corporate body in terms of proviso to Section 20 (5) of DCS Act gets its accounts audited after it is already deemed to have been dissolved and it has ceased to exist as a corporate body, such late audit of the accounts does not restore the society as a corporate body and does not wash away or obliterate its deemed dissolution in terms of the said proviso. In fact, any act done by such a society after expiry of period of 5 years stipulated in proviso to Section 20 (5) of DCS Act would be *non-est* in the eyes of law.
10. Likewise, in case, the accounts of a cooperative society have not been got audited since 3 or more years, which would mean at least 3 consecutive years and consequently it has become a defunct cooperative society, as defined in Rules 2 (f) of DCS Rules 2007, it ceases to be a member of The Delhi State Cooperative Bank Ltd. with effect from the date in which it becomes a defunct cooperative society. The cessation of the membership in terms of Rule 35 of DCS Rules 2007 being automatic and by operation of law, its membership of The Delhi State Cooperative Bank Ltd. is not revived even if

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the accounts are got audited after the society has become a defunct society. No order of RCS is required for treating a society as a defunct society within the meaning of Rule 2 (f) of DCS Rules 2007. If however, a society which is treated as a defunct society by The Delhi State Cooperative Bank Ltd. is able to satisfy the Bank, at a later date, that as a matter of fact it had not become a defunct society as defined in Rule 2 (f), it is open to the Bank to treat such a society as its valid member. No society can be made to suffer on account of mistake, if any, on part of the Bank and cannot be deprived of its right to participate in the process of election.

11. On 05.05.2024, the Returning Officer had displayed, on the notice boards, a list of 81 valid nominations of the Authorized Representatives as also two separate lists of invalid nominations. The Lists were also uploaded on the website of the Bank. The second list contained the names of 21 societies which had not got their accounts audited since 3 or more years and consequently who had become defunct societies as defined in Rule 2 (f) of DCS Rules 2007 and therefore had ceased to be members of The Delhi State Cooperative Bank Ltd. in terms of Rule 35 of DCS Rules 2007. The third list contained names of 28 societies which had not got their accounts audited for 5 consecutive years and therefore, are deemed to have been dissolved and ceased to exist as a corporate body in terms of the proviso to Section 20 (5) of DCS Act 2003. These 28 societies had also ceased to be members of The Delhi State Cooperative Bank Ltd. in terms of Rule 35 of DCS Rules 2007.

12. It was notified in the said list that the representations, if any, should reach the Returning Officer by 08.05.2024 along with all supporting documents and the supplementary list if any shall be displayed on 14.05.2024.

13. It is informed that 13 cooperative societies have made representations through their advocate, Bharani Law Chambers. Individual representations have been made by 4 societies namely The Kalyan Cooperative T/C Society Ltd., The Grameen Cooperative Veg/ Growers Society Ltd., The Palla Cooperative Veg and Fruits Growers Mkt.

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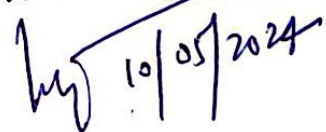
Society Ltd. and The Grameen Vikas Krishi Sakh Avam Seva Sahakari Sanstha Ltd.,
Bamnoli.

14. All the societies which made the representations were invited for personal hearing on 10.05.2024. Accordingly, the following persons appeared for these societies

- (i) Mr. R.K. Bharani, Advocate.
- (ii) Mr. Ishwari Prasad, Secretary, The Bhagat Cooperative Indl. Society Ltd.
- (iii) Mr. Shriram, Vice President, The Kamla Handloom Cooperative Ind (P) Society Ltd.
- (iv) Mr. Kanhiya Lal, Secretary, The Bhajan Handloom Cooperative Ind (P) Society Ltd.
- (v) Mr. Jai Bhagwan, Secretary, The Palla Cooperative Veg and Fruits Growers Mkt. Society Ltd.
- (vi) Mr. Mukesh Verma, Authorized Representative, The Grameen Cooperative Veg/ Growers Society Ltd.
- (vii) Mr. Hira Lal Verma, President, The Kalyan Cooperative T/C Society Ltd.
- (viii) Mr. Rakesh Kumar, Secretary, The Raja Handloom Cooperative Ind (P) Society Ltd.

15. The persons who appeared for personal hearing were duly heard and record submitted by the societies represented by them was reviewed by the Bank and the R.O.

16. Mr. Bharani did not dispute that the following 10 societies had not got their accounts audited with in the prescribed time, for 5 or more consecutive years. He also did not dispute that the remaining 3 societies represented by him had not got their accounts audited, with in the prescribed time for at least 3 consecutive years. His submission was that though Section 60 (1) of DCS Act 2003 entitles a cooperative society to get its accounts audited by an auditor selected by a society from the panel prepared by the Registrar, in practice, the RCS has been insisting that the societies can get their accounts audited only from the specific auditor approved by him and since such permissions, even if applied, were not coming in time, the accounts could not be got audited with in the prescribed period. He further submitted that the societies cannot be penalized for the delay on part of RCS in nominating the auditor of its choice. The contention advanced by Mr. Bharani cannot be accepted for 2 reasons. Firstly, neither the Act nor


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the Rules envisage nomination of auditor by the RCS for auditing accounts of the society. Therefore, the societies ought not to have sought such permission from the RCS and they ought to have complied with statutory requirements by getting their accounts audited by an auditor selected by them from the panel prepared by the RCS. It is not in dispute that such a panel has been prepared by the RCS. Secondly, no order issued by the RCS directing the societies to get the auditor for auditing its accounts approved from him has been submitted by any society. Therefore, both the contentions advanced by Mr. Bharani are liable to be rejected.

10 societies:

- i. The Bhagat Cooperative Ind. (P) Society Ltd.
- ii. The Kamla Handloom Cooperative Ind (P) Society Ltd.
- iii. The Muna Handloom Cooperative Ind (P) Society Ltd.
- iv. The Neeru Handloom Cooperative Ind (P) Society Ltd.
- v. The Raja Handloom Cooperative Ind (P) Society Ltd.
- vi. The Rathi Handloom Cooperative Ind. Society Ltd.
- vii. The Shama Handloom Cooperative Ind (P) Society Ltd.
- viii. The Surbhi Handloom Cooperative Ind (P) Society Ltd.
- ix. The Vishal Handloom Cooperative Ind. Society Ltd.
- x. The Gautam Handloom Cooperative Ind (P) Society Ltd.

17. Coming to the representation made by the other societies, the submission made by their Authorized Representatives was identical to the submission made by Mr. Bharani and for the reasons stated hereinbefore the same is rejected.

18. It is admitted by the president of The Kalyan Cooperative T/C Society Ltd. that the society is not in a position to submit the audited accounts for the year 2009-10. He also admits that for 2010-11, the accounts as per the record submitted by the society were got audited by the society on 12.10.2011. The said accounts ought to have been got audited by 28.08.2011. He also admits that audited accounts submitted by the society for the year 2011-12 does not bear any date. He points out that the accounts were

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submitted to RCS 29.09.2012. The last date for auditing accounts for the year 2011-12 was 28.08.2012 and there is no document with the society which would prove that the accounts were got audited on or before that date. In fact, it is rather strange that the audit report for the year 2011-12 does not bear any date at all. It thus evident The Kalyan Cooperative T/C Society Ltd. had not got its accounts audited since 3 years or more. As on 28.08.2012, the accounts for 2009-10 had not been got audited and the accounts of 2010-11 and 2011-12 had not been got audited within the prescribed time. Therefore, this society ceased to be member of The Delhi State Cooperative Bank Ltd. under Rule 35 of DCS Rules 2007 with effect from 29.08.2012.

19. In case of The Grameen Cooperative Veg/ Growers Society Ltd., it is admitted by the Authorized Representative of the society that the accounts of the years 2007-08, 2008-09, 2009-10 were got audited on 13.04.2011. The Society ceased to be member of The Delhi State Cooperative Bank Ltd. in terms of Rule 35 of DCS Rules 2007 with effect from 29.08.2010. Subsequent audit of accounts on 13.04.2011 does not restore the membership of the society. It is also noted that audit reports submitted by the society for 2017-18, 2018-19 do not bear any date and audited accounts for 2019-20 have not been submitted by it.

20. In case of The Palla Cooperative Veg and Fruits Growers Mkt. Society Ltd., it is admitted by the Authorized Representative of the society that the accounts of the years 2007-08, 2008-09, 2009-10 were got audited on 11.04.2011. The Society ceased to be member of The Delhi State Cooperative Bank Ltd. in terms of Rule 35 of DCS Rules 2007 with effect from 29.08.2010.

21. In case of The Grameen Vikas Krishi Sakh Avam Seva Sahakari Sanstha Ltd., Bamnoli, no one has appeared for the society. It is reported by the Bank and the Returning Officer that no audit report for the years 2007-08 to 2015-16 has been submitted by the society. Therefore, not only the society has ceased to be member of The Delhi State Cooperative Bank Ltd. in terms of Rule 35 of DCS Rules 2007, it is also deemed to have been

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dissolved and to have ceased to exist as a corporate body in terms of proviso of Section 20 (5) of DCS Act 2003.

22. All these representations are hereby rejected. The concerned societies be informed accordingly and one copy each of these minutes be attached to the communications. As was requested by representative of The Palla Cooperative Veg and Fruits Growers Mkt. Society Ltd. and The Grameen Cooperative Veg/ Growers Society Ltd., the communication will be sent to them to vermamukesh2000@gmail.com. The communication addressed to The Kalyan Cooperative T/C Society Ltd. be sent kalyantsociety1982@gmail.com.
23. The rejection be also conveyed through text messages, on the mobile no available with the bank . If possible, the minutes be attached to the text message. If it is not possible, the society be advised to access the Minutes on the website of the Bank.
24. These minutes be also uploaded on website of the Bank, at the earliest possible.
25. A flash be given on the website of the Bank , leading to the link 'Elections' on the said website.


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Justice (Retd) V K Jain

Delhi Dated May 10, 2024