

ORDER

The President of the Priya Sadan CGHS Ltd., Vikaspuri, vide order dt. 20.08.15 of the Appellate Authority u/s 139 of DCS Act 2003, was directed to furnish the information to Dr. Vijay Rattan Nehru, the appellant, as sought by him in his RTI application dt. 15.10.14 after intimating and receiving prescribed fee.

The appellant vide his letter dt. 19.09.2015 informed that the President/Managing Committee have not intimated him the prescribed fee for getting the demanded documents and thereby not provided information/documents as ordered by the Appellate Authority. Necessary action for non-compliance has been requested by the appellant.

A show cause Notice dt. 20.11.2015 was issued to the President/Secretary of the said Society as to why maximum penalty should not be imposed for not providing information as per provision of section 139 of DCS Act 2003. The appellant, in person, and sh. Tariq Muneer, Advocate alongwith Sh. K.D. Tripathi, Supervisor-Cum-Clerk of the Society attended the hearing on 10.12.2015. The Society, in its reply, held that the appellant submitted his application dt. 15.10.14 for seeking information under the provisions of the RTI Act 2005 and not under section 139 of the DCS Act. and the RTI Act 2005 does not apply on Cooperative Societies, as has been held and settled by the Hon'ble Supreme Court. As such Society has not committed any default u/s 139 of DCS Act r/w Rule 165 of the DCS Rules 2007 as there was no application preferred u/s 139 of the DCS Act before the Society. It was inter alia, requested to set aside the order dt. 20.08.15 and withdraw SCN dt. 20.11.15 as the same has been obtained on the basis of suppression of material facts and bad in law.

The appellant vide application dt. 15.10.14 under the RTI Act 2005 addressed to the President, the Priya Sadan CGHS Ltd., by enclosing required fee of Rs. 10 under the RTI Act sought copies of certain documents. The Society did not respond to the above RTI application by informing that Cooperative Societies are not covered under the RTI Act 2005 nor did it return the deposited fee. The appellant filed appeal dt. 19.01.2015 under section 139 of DCS Act 2003 to the AR (sec.-6) stating that on 21.11.2014 he gave an application to the Society for providing him information under the relevant RTI Act. which the appellant on letter dt. 07.04.15 of AR (Sec.-6) provided vide his letter dt. 14.04.15 which was infact the request of the appellant to the RCS for taking action against Management of Society for not responding to his RTI application. The Society/Appellant was issued hearing notice dt. 22.05.15 u/s 139 of the DCS Act 2003 for 29.05.2015 which was adjourned to 05.06.15. On both the occasions Sh. K.D. Tripathi, Supervisor-cum- office clerk was present who was authorised "to represent the Society u/s 139 of the DCS Act, 2003". Neither any reply was filed nor the representative of

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the Society made any reference of the RTI application having filed under RTI Act 2005 and not u/s 139 of DCS Act 2003. The RTI application was thus considered having been filed u/s 139 of the DCS Act 2003 and accordingly the appeal against not providing information was disposed of vide order dt. 20.08.2015. The Society did not challenge the said order dt. 20.08.15 by invoking appropriate remedy under the law. Now on issuing of SCN dt. 20.11.15 u/s 139 of the DCS Act 2003 r/w Rule 165 of DCS Rules 2007, the Society has taken the plea that the RTI application was under RTI Act 2005 and not u/s 139 of DCS Act 2003 which is not tenable at this stage. The defendant Society did not object to the proceedings earlier before issue of show cause notice for imposing of penalty hence they submitted to the jurisdiction of the appellant authority by way of deemed admission and acquiescence to the contents and grounds of the appeal. Moreover, the appellant authority had already become *functus officio* in case of appeal after passing the order in appeal on 20.08.15 and present proceedings are only for penalty purpose. Nomenclature is different but the purpose of both the Acts i.e. RTI Act 2005 and Section 139 of DCS Act 2003 is to provide transparency and accountability in the system. The appellant, being a member of the Society, fulfils the requirement for seeking information from the said Society.

There has been blatant disobedience of order dated 20.08.15 of the Appellant Authority by the Society. Therefore, in exercise of powers conferred u/s 139 (2) of DCS Act 2003 r/w Rule 165 (8) of DCS Rules 2007, I hereby impose a penalty of Rs. 10,000/- on the Information Officer of the Priya Sadan CGHS Ltd., Vikas Puri for non compliance of the above stated order. This penalty shall be deposited from the personal pocket of the committee members/concerned Information Officer in the Cooperative Education Fund of the office of Registrar Cooperative Societies, Delhi within a period of 15 days of receipt of this order and submit the deposit receipt in this office. Further, the President of the above said society is directed to furnish the information free of cost as sought by the appellant in his RTI application dt. 15.10.2014 within a period of 2 weeks from the receipt of this order.

The appeal is disposed of accordingly with the above observations.


25.1.16
(Vijay Bhardwaj)

Appellate Authority/DRCS-II

To

1. Sh. Vijay Rattan Nehru, G-3, Priya Apartments, Plot-12, Block-D, Vikaspuri, ND- 18.
2. The President/Secretary, Priya Sadan Coop. Group Housing Society, Vikaspuri, New Delhi- 110018.
3. AR (Sec.-6) O/o the RCS GNCTD.
4. ✓ AD, Computer O/o the RCS GNCTD.