

Rohit Ghuge

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 11404 OF 2024

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Amol Chandrabhan Goje,
Age: 56 years, Occ. Service,
R/at H-302, Lubaram Park,
Magarpatta City, Hadapsar,
Pune-411020.

...Petitioner

Versus

- 1. State of Maharashtra,**
- 2. The Divisional Commissioner,**
Pune Region, Pune.
- 3. The Collector, Pune**
Collector Office,
(Revenue Department)
Pune.
- 4. The Assistant Commissioner**
Social Justice & Welfare Department
Pune.
- 5. The Joint District Registrar Class-2@**
The Administrative Officer, Pune City, Pune
Finance Road, Photo Zico Press,
1st Floor, In front of B.J.Girls Hostel, Pune – 4.
- 6. The Deputy – Joint Registrar Class – 2,**
Haveli No. 23
5 Finance Road, Government Photo Zico Press,
1st Floor, in front of B.J.Girls Hostel, Pune – 4.

7. **The Satyawadi Sahakari Co-op. Hsg. Society Ltd.**
Through its Chairman, Secretary,
Plot No. 10, First Floor,
City Survey No. 15/1+2+3,
Plot No. A-2, CTS No. 1237,
Erandwana, Pune – 04.
8. **Shekhar Maruti Bamane**
Age: 55 years, Occ. Service,
R/at : CTS No. 36, Vanarai Colony,
Dhanakawadi, Pune 46.
9. **Vinayak Rajaram Shinde,**
Age: 49 years, Occ. Service,
R/at City Survey No. 36,
Vanarai Colony, Dhanakawadi,
Pune – 46.
10. **Hirabai Rajaram Shinde,**
Age: 80 years, Occ. Housewife,
Rajbhoj City Survey No. 201,
Plot No. 7, Madhuban Vidyadhan Co-op. Hsg. Society,
Opp. Jyoti Vihar, Dhankawdi,
Pune 411 043.
11. **Shantaram Shinde**
Age: 42 years, Occ. Service,
R/at City Survey No. 32/15,
Rajvilas Complex, Plot No. 27
Behind Bharthi Vidyapeeth,
Dhanakawdi Pune 411 043.

...Respondents

Mr. Rahul S. Kadam, for the Petitioner.

Mr. Kedar B. Dighe, Add.G.P., a/w Mr. M. M. Pable, AGP, for
Respondent- State

CORAM : BHARATI DANGRE &

ASHISH S. CHAVAN, JJ.

DATE : 28th SEPTEMBER 2026

JUDGMENT [Per Ashish S. Chavan J.]:

1. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned counsel appearing for the Respondents waive notice on behalf of the respective Respondents.
2. By way of this Petition, the Petitioner who is aggrieved by order dated 31.01.2024 passed by Respondent No. 3- Collector, Pune revoking/cancelling the earlier approval of membership of the Petitioner in the Respondent No. 7 Society, has approached this Court invoking its Writ jurisdiction.
3. Respondent No. 7 is society registered under the Maharashtra Co-operative Societies Act, 1960 formed for the housing needs of persons belonging to the backward class. The original member of Flat No. 10 of the Respondent No. 7 society was one Rajaram Shinde. After his demise, his legal heirs were brought on record. Thereafter, one Hirabai Rajaram Shinde became the member of Flat No. 10. The Petitioner claims to be bona fide purchaser who purchased the Flat No. 10 from the said Hirabai Shinde vide deed of assignment somewhere in 2013.

4. On 16.05.2013, the Petitioner and Respondent No. 10 Hirabai Shinde jointly made an application to the Respondent No. 3 - Collector, Pune for transfer of membership in favour of the Petitioner. Vide its Reply dated 12.12.2013, the office of Respondent No. 3 sought some documents from Respondent No. 10 - Hirabai Shinde. On 03.02.2014, the Respondent No. 3 addressed a communication to the Petitioner in connection with his aforesaid application intimating him that his request for transfer of membership was accepted subject to payment of transfer fee of Rs. 89,600/-. In response to the aforesaid communication, the Petitioner deposited the transfer fee on 05.02.2014. On 25.02.2014 the office of Respondent No. 3 issued an order granting membership of Flat No. 10 to the Petitioner on certain terms and conditions. The condition that assumes significance in the light of the present Petition is that in the event any information furnished by the Petitioner in his affidavit is either misleading or incorrect, it would lead to the revoking / recall of his membership.

5. The Petitioner contends that thereafter, certain complaints were made by some individuals to the office of Respondent No. 3

alleging use of fraudulent documents by the Petitioner to obtain the transfer of membership of the flat. On 17.09.2021 the Petitioner was shocked to receive a notice from the office of Respondent No.3 informing him that the Social Welfare Department, Pune has given an adverse report against the Petitioner and the Respondent No. 3 is conducting a review into the transfer of membership in favour of the Petitioner. The notice directed the Petitioner to remain present in the office of the Respondent No. 3 on 05.10.2021 for a hearing in that regard. It is further contended by the Petitioner that on 27.12.2023 one hearing took place before the Respondent No. 3 and on 31.01.2024, without looking into the grievance of the Petitioner, the Respondent No. 3 revoked earlier order dated 25.02.2014 granting approval to the transfer of the membership in favor of the Petitioner. It is this order which is assailed by the Petitioner before this Court.

6. Heard, Mr. Kadam, for the Petitioner and Mr. Dighe, Add.G.P., for Respondent- State

7. The learned Add.G.P., Mr. Dighe, has defended the impugned order dated 31.01.2024. Inviting our attention to the order

impugned, he submits that some fraudulent documents were tendered by the Petitioner to mislead the Respondent No. 3 and secured an order dated 25.02.2014 *inter alia* transferring the membership of Flat No. 10 in his favour. He would further contend that the order dated 25.02.2014 was premised on several conditions, one of which was that if the member has provided false and misleading information to the Respondent No. 3-Collector, the transfer of membership would stand automatically stand cancelled/revoked. Thus, he would justify the impugned order which reviews the earlier order dated 25.02.2014 contending that the membership was revoked by Respondent No.3 being in breach of the condition on which it was premised.

8. The issue that arises for consideration before us is whether Respondent No. 3 – Collector, Pune had the authority to issue the impugned order dated 31.01.2024 which amounted to a review of his earlier order dated 25.02.2014 and whether the Petitioner was in breach of any condition emanating from the order dated 25.02.2014. A perusal of the order dated 25.02.2014 reveals two aspects. Firstly, that the transfer of membership of Flat No. 10 in favour of the Petitioner was subject to payment of a transfer fee

which was duly paid by the Petitioner. There was no legal impediment to the transfer of the flat in favour of the Petitioner as such transfer was clearly covered by State GR No. LCS0606/P.K.54/J-1 dated 25.05.2007. Secondly, it is evident that the aforesaid order was premised on the condition that if the Petitioner had furnished any false or misleading facts in his affidavit in support of the application for transfer of membership, the membership would stand revoked/cancelled.

Although there are other conditions enumerated in the said order, learned Add.G.P., has submitted that the Petitioner is in breach of the aforesaid condition since he has furnished false and fabricated documents to secure transfer of the membership in his favor. However, despite our queries as to which false or fabricated documents were furnished by the Petitioner, learned Add.G.P., Mr. Dighe could not provide us any satisfactory answer. A perusal of the impugned order dated 31.01.2024 also reveals that the ground on which the membership of the Petitioner is revoked is that prior to transferring membership in his favor it was necessary to obtain an approval from the Social Welfare Department, Pune and that the State G.R. dated 25.05.2007 was not applicable to the society i.e. Respondent No. 7 which was formed for the benefit of backward

class members.

One fact that emerges with clarity before us is that there is no discussion about any forged documents / affidavit furnished by the Petitioner as contended by the Learned Add.G.P. The order of 25.02.2014 transferring membership of the flat to the Petitioner was based on the State G.R. dated 25.05.2007 bearing No. LCS0606/P.K.54/J-1, which provided for regularization for the membership of flats upon payment of certain transfer fee. It is not in dispute that the petitioner has paid such transfer fee and Respondent No. 3 has vide his order dated 25.02.2014 transferred membership in his favour. This order could be revisited/reviewed by Respondent No. 3 only in the event of a breach of the condition on which it was premised. The learned Add.G.P., has not pointed out any breach of the condition enumerated in the order dated 25.02.2014. He has also not pointed out any provision of law which would authorize the Respondent No. 3 - Collector to review his own order. In such circumstances, in the wake of the aforesaid discussion, we find that the impugned order dated 31.01.2024 deserves to be set aside, being unreasoned and without any authority. Consequently the challenge to the order dated 31.01.2024 succeeds. The Writ Petition is allowed. Rule is made

absolute.

We must clarify that the society i.e. Respondent No. 7, is at liberty to take steps, if it so desires, in accordance with the due process of law.

ASHISH S. CHAVAN, J.

BHARATI DANGRE, J.