



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

WRIT PETITION NO.12719 OF 2026

Vijay Patilbhau Deore & Ors.

....Petitioners

V/S

The District Co-operative Election Officer

@ District Deputy Registrar & Ors.

....Respondents

Mr. Rameshwar N. Gite with Ms. Tejaswini Pathave *for the Petitioners.*

Mr. Kishor Patil i/b Mr. Akshay H. Bankapur and Mr. Sunil Javale AN. *for Respondent Nos.2, 4 and 5.*

Mr. Y.D. Patil, AGP *for Respondent Nos.1, 3 and 6/State.*

CORAM : SANDEEP V. MARNE, J.

DATE : 05 OCTOBER 2026.

P.C.:

1. The Petition challenges order dated 17 September 2026 passed by the Divisional Joint Registrar, Co-operative Societies, Nashik Division, Nashik, rejecting the stay application filed in Appeal No.A-127 of 2026. The Appeal has been filed by the Petitioners challenging order dated 31 July 2026 passed by the Deputy Registrar, by which powers under Section 77A(1)(i) of the Maharashtra Cooperative Societies Act, 1960 (**MCS Act**) were exercised and the Deputy Registrar has appointed two members of the Society as the members of the managing committee to fulfil the quorum on account of tendering of resignations by the ten managing committee members. Petitioners, who had tendered resignations from

the managing committee, are aggrieved by the Deputy Registrar's direction for appointing two members on the managing committee. It is the contention of the Petitioners that after tendering of resignations by ten members, the quorum was incomplete and that therefore, the only course of action open for the Deputy Registrar was to appoint a temporary committee for managing day-to-day affairs of the Society and it was impermissible for the Deputy Registrar to fill in the vacancies in respect of a committee which had become non-functional. However, since stay to the order dated 31 July 2026 was rejected by the Divisional Joint Registrar, the present Petition has been filed.

2. I have heard Mr. Gite, the learned counsel appearing for the Petitioners, Mr. Kishor Patil, the learned counsel appearing for Respondent Nos. 2, 4, and 5 and Mr. Patil, the learned AGP appearing for Respondent Nos.1, 3 and 6/State.

3. Elections to the Nashik District Government and Zilla Parishad Employees' Cooperative Bank Limited, Nashik, were held in the year 2023. The strength of the managing committee is 21, however, only 19 committee members were elected in the elections. The quorum required for a managing committee comprising of 19 members is 11. However, on 28 June 2026, the 10 Petitioners, who were elected managing committee members, tendered their resignations, thereby reducing the strength of the committee to 9. Thus, the committee did not have required quorum for its functioning. The Deputy Registrar, stepped in by exercising powers under Section 77(A) of the MCS Act. After noticing that two more

members were required for constitution of a valid quorum, he proceeded to exercise powers under clause (i) of Section 77(A)(1) of the MCS Act and proceeded to appoint two members—Pradeep Ratan Ahire and Anil Ramnath Wagh on the Board of the Bank.

4. Under Section 77(A) of the MCS Act, the Registrar can exercise powers of appointment of a member of committee, a new committee, an authorized officer, etc. Section 77(A) of the MCS Act provides thus:

“77A. Appointment of member of committee, new committee, authorised officers, where there is failure to elect member, to constitute committee or where committee does not enter upon office, etc.

(1) Where the Registrar is satisfied that,-

(1-a) a provisional committee has failed to make necessary arrangements for holding election for the constitution of the first committee, before the expiry of its term as specified in sub-section (1A) of section 73;

(a) at the first constitution of the committee of any society there is a failure to elect all or any of the members of the committee;

(b) the term of the committee of any society or of any of its members has expired or for any other reason election is held and there is a failure to elect all or any of the members required to fill the vacancies;

(b-1) there is a stalemate in the constitution or committee has ceased to function and vacuum is created in the management;

(c) any committee is prevented from entering upon office;

(d) a new committee has failed to enter upon office on the date on which the term of office of the existing committee expired; or

(e) ...

(f) where more than one group of persons in a society is claiming to be elected as the committee members and proceedings in respect thereof have been filed in the Co-operative Court;

the Registrar may, either *suo-motu* or on the application of any officer or member of the society by order appoint-

(i) any member or members of the society to be the member or members of the committee to fill the vacancies;

(ii) a committee, consisting of not more than three members of the society, or one or more authorised officers, who need not be members of the society, to manage the affairs of the society till a new committee enters upon office:

Provided that, before making such order, the Registrar shall publish a notice on the notice board at the head office of the society, inviting objections and suggestions with respect to the proposed order within a period specified in the notice and consider all objections and suggestions received by him within that period:

Provided further that, it shall not be necessary to publish such notice in any case where Registrar is satisfied that immediate action is required to be taken or that it is not reasonable practical to publish such notice.

(2) The committee or authorised officer so appointed shall, subject to the control of the Registrar and to such instructions as he may, from time to time, give, have power to discharge all or any of the functions of the committee or of any officer of the society and take all such action as may be required to be taken in the interests of the society.

(3) The Committee or authorised officer so appointed shall hold office for a period of twelve months from the date of assuming the management of the society and shall make necessary arrangements for constituting a new committee within the said period and for enabling the new committee including any new committee referred to in clause (f) of sub-section (1), which is determined by the Court to have been legally elected, to enter upon office:

Provided that, in no circumstances the term of office of the committee or authorised officer shall exceed twelve months from the date of their holding office.

(4) The Registrar shall have the power to change the committee or any or all members thereof or any or all the authorised officers appointed under sub-sections (1) at his discretion even before the expiry of the period specified in the order made under sub-section (1).

(5) The provisions of sub-section (2) of section 78A shall apply *mutatis mutandis* for fixation of remuneration to be paid to the members or authorised officers appointed under sub-section (1)."

5. The issue of interpretation of provisions of Section 77(A) of the MCS Act came for consideration before a Co-ordinate Bench of this Court in ***Vijay Lakhi & Ors. vs. Minister of Co-operation & Ors.***¹ After

¹ Writ Petition No.11625 of 2025, decided on 6 October 2025.

analysing the statutory scheme of Section 77(A) of the MCS Act, this Court drew a distinction of circumstances under which powers under clauses (i) and (ii) of Section 77(A)(1) of the MCS Act can be exercised. This Court held in paragraphs 25 to 33 of the judgment as under:

“Clause (i) of Section 77A(1):

25. Clause (i) of Section 77A(1) deals with situations where the elected committee is broadly in place but some seats are left vacant. This may happen at the first election itself, where not all seats are filled, or later, when some members resign, die, or are disqualified. In such cases, the committee is not completely paralysed. It is only short of its full strength.

26. This provision, therefore, allows the Registrar to step in and fill up those vacancies by appointing members of the society itself. The purpose is limited, to complete the committee and ensure that it can continue its work smoothly. This avoids unnecessary disruption and keeps the society under the control of its own members, which is the essence of the co-operative movement.

27. It is important to note that this power is meant only for filling casual or temporary gaps. It is not a license for the Registrar to interfere with the elected body whenever he wishes. The elected committee remains the main governing authority, and the Registrar's role under clause (i) is only supportive, to strengthen the committee so that it does not collapse because of a few vacancies.

28. The guiding principle of co-operative law is self-governance by members. Therefore, when vacancies are few and the elected structure is otherwise working, the Registrar must prefer this minimal intervention under clause (i). Only when the situation is more serious, such as a stalemate or complete deadlock, can the Registrar move to stronger measures under clause (ii) or the expression 'one or more authorised officers'.

29. Thus, clause (i) is a preventive safeguard. It ensures that minor vacancies do not stop the functioning of the society. At the same time, it protects the democratic character of the institution by filling those vacancies only with members of the same society.

30. The Registrar, when filling up vacancies by appointing members of the society, must select only those who are eligible to be elected as committee members under the Act, Rules and bye-laws. This flows from the principle that an appointee under Section 77A merely steps into the shoes of an elected member. He cannot enjoy a higher status than one who could be elected. Hence, statutory disqualifications under Sections 73CA, 78, and 78A and similar provisions will apply. For example, Defaulter in repayment of loans; Conviction of offences involving moral turpitude; Having interest in contracts with the society; Disqualified under bye-laws or under State Government Government Resolutions. If a person is disqualified from being elected, he cannot be inducted by the Registrar under Section 77A.

Clause (ii) of Section 77A(1):

31. Clause (ii) of Section 77A(1) applies when the problem is more serious than a few vacant seats. This happens when the managing committee as a whole cannot function. Examples include a situation where the term of the committee has expired but the new committee has not taken charge, or where there is a deadlock and the committee has ceased to function, or where disputes between groups have paralysed the management. In such cases, the society cannot continue with its regular business through the elected body.

32. To deal with such a situation, the Registrar is empowered to form a small temporary committee of not more than three members from within the society. This ensures that the society continues to be run by its own members, even if on a temporary basis. The idea is that external control should be avoided as far as possible, and preference should always be given to members themselves to manage their affairs.

33. The object of clause (ii) is therefore to prevent a vacuum in administration while maintaining the democratic spirit of co-operatives. It is an intermediate measure, stronger than simply filling up a few vacancies under clause (i), but less drastic than bringing in outsiders under the expression 'one or more authorised officers'. This step shows the Legislature's intention to keep co-operative societies member-driven, even during a crisis."

6. This Court has thus held that powers under clause (i) of Section 77(A)(1) of the MCS Act can be exercised only if the committee as a whole is still valid and functional. In such circumstances, the Registrar can appoint any member of the Society to be the member of the committee to fill the vacancy. However, if the committee itself is non-functional *inter alia* on the ground of not having enough members to meet the quorum, the only power exercisable is under clause (ii) of Section 77(A)(1) of the MCS Act. This Court held in paragraphs 46 to 48 of the judgment as under:

"Legal effect of resignation of majority members:

46. When a majority of the managing committee members resign, their resignation takes effect from the date it is accepted in law (in most societies, resignation becomes effective when it is tendered and accepted, if

required, as per bye-laws). Once the resignations become effective, those members immediately cease to be part of the committee.

47. If only a small number of members remain and quorum is lost, the committee cannot legally function. Without quorum, it cannot hold meetings, pass resolutions, or co-opt new members. In such a case, the elected body comes to an end, just as in the case of disqualification. In law, the committee stands collapsed.

Applicability of Clause (I):

48. Clause (i) of Section 77A is meant for situations where there are only a few vacancies, but the committee as a whole is still valid and functional. For example, if one or two members resign, leaving enough members to meet quorum, then the Registrar can step in and fill those vacancies by appointing society members. However, when a majority resign and quorum is lost, the committee ceases to exist in a valid form. In such cases, clause (i) cannot apply, because there is no functioning body to support.”

7. In the present case, upon tendering of resignations by ten managing committee members on 28 June 2026, the required quorum was not available and thereby the committee as a whole became invalid and non-functional. If the committee itself was not in existence, there is no question of any vacancy remaining in such a non-existent committee. In that sense, it was wholly impermissible for the Deputy Registrar to fill up a non-existent vacancy in respect of a non-existent committee by having recourse to provisions of clause (i) of Section 77(A)(1) of the MCS Act. The correct course of action in such circumstances was to exercise powers under clause (ii) of Section 77(A)(1) of the MCS Act. To this extent, the Deputy Registrar appears to have clearly faltered in the present case by appointing two members of the Society on the committee for filling up the vacancies. What the Deputy Registrar ought to have done was to appoint a committee consisting of not more than three members of the Society to manage the affairs of the Society till a new committee enters upon the office.

8. Mr. Patil has strenuously sought to suggest that in ***Vijay Lakhi*** (supra) this Court has highlighted the importance of management of affairs of the Society through its members and not through outside agencies/entities. However, even by appointment of a committee consisting of not more than three members of the Society, the objective of managing the affairs of the Society through members can be achieved. In my view therefore, the order passed by the Deputy Registrar in the present case is clearly unsustainable and liable to be set aside. Though the appeal is pending before the Divisional Joint Registrar, with a view to cut short any further litigation between the parties on the issue, it would be appropriate to set aside the Deputy Registrar's order dated 31 July 2026 so that the Deputy Registrar can proceed to exercise powers under clause (ii) of Section 77(A)(1) of the MCS Act and forthwith appoint a committee consisting of not more than three members of the Society.

9. Mr. Patil, on taking instructions, submits that his clients are not really opposed to the arrangement of appointment of a committee of not more than three members of the Society till elections for formation of a new committee are held. He, however, submits that such three members need to be appointed through the nine committee members who were interested in continuing as managing committee members and who had not tendered their resignations. This suggestion is opposed by Mr. Gite. In the present case, Petitioners have shown disinterest in managing the affairs of the Society. They have voluntarily resigned from their positions and have refused to act as managing committee members. It therefore is incomprehensible that Petitioners can be appointed as members of an

ad-hoc committee under Section 77(A)(1)(i) of the MCS Act. If the balance nine members of the erstwhile managing committee who had not tendered their resignations are interested in functioning as members of the committee under clause (ii) of Section 77(A)(1) of the MCS Act, the Registrar would obviously keep the same in mind while deciding the composition of the committee.

10. I accordingly proceed to pass the following order:

- i) Order dated 31 July 2026 passed by the Deputy Registrar is set aside.
- ii) The Deputy Registrar shall proceed to appoint a committee under Section 77(A)(1)(ii) of the MCS Act, comprising of not more than three members of the Society for deciding composition of the committee. It would be open for the Deputy Registrar to take into consideration interest expressed by the nine managing committee members who had not tendered their resignations.
- iii) The appointment of the committee shall be for the purpose of managing day-to-day affairs of the Society and for the purpose of holding of elections in an expeditious manner. Accordingly, the committee shall proceed to take steps for expeditious holding of elections of the Society.
- iv) Since the order of the Deputy Registrar dated 31 July 2026 is set aside the Divisional Joint Registrar shall proceed to pass a formal order closing Appeal No.A/127 of 2026.

11. With the above directions, Writ Petition is partly allowed and **disposed of**. There shall be no order as to costs.

(SANDEEP V. MARNE, J.)