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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1252 OF 2022

Jayant D Sanghvi & Ors ...Petitioners
Versus
State of Maharashtra through Co-operative ...Respondents
Societies Department & Ors

WITH
CONTEMPT PETITION NO. 96 OF 2022

Kapol CHSL ...Petitioners
Versus
Nitin Dahibhate, District Deputy Registrar & Ors ...Respondents

WITH
WRIT PETITION NO. 1891 OF 2022

Kapol CHSL ...Petitioners
Versus
State of Maharashtra through the Secretary ...Respondents
Cooperative Societies Department & Ors

Dr Abhinav Chandrachud, *with Aditya Bhatt, Rachna Mamnani i/b*
B. Legal for the Petitioners in WP No 1252/2022 and for
Respondent No 4 in WP No.1891/2022
Mr Mukesh Vashi, *Senior Advocate with Mrs Prachi K i/b M P Vashi*
& Associates for Respondent No 3 and Petitioner in CP No
96/2022 & WP No 1891/2022 for the Respondent.
Mr K S Thorat, *AGP for the Respondent-State.*

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.**
DATED: 24th February 2022

PC:-

1. Both Petitions can be disposed of by a common order. Writ Petition 1891 of 2022 is filed by the Kapol Cooperative Housing Society Ltd challenging a report dated 27th December 2021 under Section 88 of the Maharashtra Co-operative Societies Act, 1960. This is said to have been communicated to the society under cover of a letter of 14th January 2022 addressed to the Chairman and Secretary of the Society. We are told that this was served only on 14th February 2022.
2. Writ Petition No 1252 of 2022 is filed by four individuals seeking that the four Society members against whom there are findings in the Section 88 report be held to be disqualified under section 73CA of the MCS Act from offering themselves to the elections of the Managing Committee at the forthcoming elections scheduled for 6th March 2022.
3. We decline to enter into the controversy raised by the Society because we find that the Society has an alternative remedy including but not limited to an appeal under section 152 of the MCS Act. It is open to the Society to pursue all its available remedies in law on all points, including maintainability and jurisdiction. We have expressed no opinion on the merits and all contentions on both sides are expressly kept open.

4. This is sufficient for a disposal of the Society's Writ Petition.
5. As regards Writ Petition No 1252 of 2022 by the individual members, it appears to us clear that it is for the Society to obtain appropriate orders from a jurisdictionally competent authority under the MCS Act in regard to the Section 88 order, and to do so before the elections, failing which the provisions of MCS Act regarding eligibility for standing for elections, including under section 73CA, will automatically operate. This is sufficient to dispose of the second Petition.
6. Both Petitions are disposed of in these terms.
7. There is a Contempt Petition filed by the Society. We see no reason to entertain it. The Contempt Petition is rejected. There will be no order as to costs.
8. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)