

VRJ

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

WRIT PETITION NO.4238 OF 2024

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Pankaj Seth & Ors.

... Petitioners

V/s.

The Deputy Registrar, Cooperative
Societies & Ors.

... Respondents

Mr. Prashant P. Kulkarni i/by Ms. Rachna Mamnani for
the petitioners.

Ms. M. S. Srivastava, AGP for the State/respondent
Nos.1, 2 & 6.

Mr. Harish R. Pawar with Mr. Shivam S. Gawde for
respondent No.4.

CORAM : AMIT BORKAR, J.

DATED : MARCH 21, 2024

P.C.:

1. **Rule.** Rule is made returnable forthwith.
2. Challenge in this writ petition is to the interim order passed by respondent No.6 granting stay to the order of allowing appeal against an order under sections 77A and 78A of the Maharashtra Cooperative Societies Act, 1960.
3. The Deputy Registrar, Cooperative Societies by order dated 13th September 2023 disqualified four persons i.e. petitioners from continuing as member of management committee of cooperative housing society. The grounds for removal are in the nature of non-

compliance of provisions of bye-laws and failure to hold monthly managing committee meetings.

4. The petitioners filed appeal and revision before the Divisional Joint Registrar who allowed the appeal setting aside order of disqualification of members and consequential order of appointment of Administrator under section 77A of the Maharashtra Cooperative Societies Act, 1960 for want of quorum. This order was challenged by the complainant before respondent No.6. Respondent No.6 by the impugned order has granted stay to the order of setting aside order of appointment of Administrator and disqualification of members.

5. In my opinion, the impugned order suffers from various infirmities which are as under:

(i) The petitioners are elected managing committee members against whom order of removal for non-compliance of provisions of bye-laws and rules was passed. Such order was set aside by the Appellate Authority. The result is the order of removal and appointment of Administrator are set aside. Once the orders are set aside there is no executable order which can be stayed by the Revisional Authority.

(ii) The grant of interim order has drastic consequences of again removing elected managing committee members in whose favour the Appellate Authority had granted relief by setting aside the order of appoint of Administrator and order of their removal. Such order could not have been passed except by assigning detailed reasons and unless exceptional circumstances exists. No case of

exceptional circumstances was made out before the Minister.

(iii) Once the Appellate Authority sets aside the order of removal of elected managing committee members and order of appointment of Administrator on merits, such order could not have been stayed by way of interim relief.

6. Hence, in my opinion, the impugned order cannot be sustained. Hence, following order:

7. Rule is made absolute in terms of prayer clause (a).

8. The Minister shall decide the revision application uninfluenced by the observations made in the order.

(AMIT BORKAR, J.)