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

WRIT PETITION NO.9348 OF 2022

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Savani Cooperative Housing
Society Ltd. & Ors.

... Petitioners

V/s.

The Divisional Joint Registrar
of Coop. Societies & Ors.

... Respondents

Mr. R.R. Soni with Mr. Prayag Joshi i/by Joshi Law
Associates for the petitioners.

Mr. Y.D. Patil, AGP for the respondents/State.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 16, 2024

PC.:

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The petitioners are Chairman and Secretary of a cooperative housing society registered under the provisions of the Maharashtra Cooperative Societies Act, 1960 ("MCS Act" for short).
- 3.** The authorities under the MCS Act directed the society to include names of persons to be members of the housing society in exercise of powers under Section 23(2) of the MCS Act. For non-compliance of such order, notices were issued to the petitioners. However, the Deputy Registrar (Cooperative Societies) by order dated 20 May 2022 disqualified the Chairman and Secretary for non-compliance of order under Section 23(2).

4. It is well settled that the elected members of a cooperative society can be removed only if charges against them are grave or in relation to misappropriation of funds or fraud or misfeasance.

5. The charge against the petitioners is of non-compliance of order. According to the petitioners, during the pendency of the proceedings the names of persons directed to be shown in the membership register has been complied with.

6. Therefore, before taking such drastic action of disqualifying elected members, the consequence of the order must be proportional to the gravity of charge against such elected managing committee members. Therefore, in my opinion, the petitioners have made out a case for grant of interim relief during pendency of the revision application.

7. It is, therefore, directed that during pendency of the revision application before the revisional authorities, the effect, operation and implementation of order of disqualification dated 20 May 2022 shall remain stayed.

8. Rule is made absolute in above terms.

9. The writ petition stands disposed of accordingly. No costs.

(AMIT BORKAR, J.)