

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.9000 OF 2025**

**AKKATAI SADASHIV KOLEKAR
VS
ASSISTANT REGISTRAR CO OP. SOC.
KOLHAPUR DIVISIONA AND ORS**

**AND
WRIT PETITION NO.9004 OF 2025**

**SURENDRA BABURAO SHIRGAVEK
VS
ASSISTANT REGISTRAR CO-OPERATIVE SOCIETIES KOLHAPUR
DIVISION AND ORS**

**AND
WRIT PETITION NO.7838 OF 2025**

**KALAVATI RAGHUNATH DESHINGE
VS
ASSISTANT REGISTRAR CO-OPERATIVE SOCIETIES KOLHAPUR
DIVISION AND ORS**

**AND
WRIT PETITION NO.7843 OF 2025**

**HALLAPPA MAYAPPA ALIAS MALLAPPA KAMBLE
VS
ASSISTANT REGISTRAR CO-OPSOCIETIES KOLHAPUR DIVISION AND
ORS**

**AND
WRIT PETITION NO.7835 OF 2025**

**BIRA YALLAPPA KAMBLE (GAWADE)
VS
ASSISTANT REGISTRAR CO OP. SOC. KOLHAPUR DIVISION
AND ORS**

**AND
WRIT PETITION NO.7841 OF 2025**

**BHALCHANDRA BABURAO SHIRGAVE
VS
ASSISTANT REGISTRAR CO-OPERATIVE SOCIETIES KOLHAPUR
DIVISION AND ORS**

AND
WRIT PETITION NO.9005 OF 2025

SAVANTA YALLAPPA KAMBLE (GAVADE)
VS
ASSISTANT REGISTRAR CO OP. SOC. KOLHAPUR AND ORS

AND
WRIT PETITION NO.10153 OF 2025

BHARATI BHALCHANDRA SHIRGAVE
VS
ASSISTANT REGISTRAR CO-OPSOCIETIES KOLHAPUR DIVISION AND
ORS

AND
WRIT PETITION NO.7844 OF 2025

JAYASHRI JAYPAL SHIRGAVE
VS
ASSISTANT REGISTRAR CO OP. SOC. KOLHAPUR DIVISIONA
AND ORS

AND
WRIT PETITION NO.7840 OF 2025

KAMAL RAJARAM SHIRGAVE
VS
ASSISTANT REGISTRAR CO OP. SOC. KOLHAPUR AND ORS

AND
WRIT PETITION NO.7837 OF 2025

MARUTI ANNAPPA KAMBLE ALIAS GAVANDE
VS
ASSISTANT REGISTRAR CO-OPERATIVE SOCIETIES KOLHAPUR
DIVISION AND ORS

AND
WRIT PETITION NO.7836 OF 2025

RAJARAM BABURAO SHIRGAVE
VS
ASSISTANT REGISTRAR CO-OPSOCIETIES KOLHAPUR DIVISION AND
ORS

AND
WRIT PETITION NO.9001 OF 2025
SUVARNA SURENDRA SHIRGAVE
VS
ASSISTANT REGISTRAR CO-OPSOCIETIES KOLHAPUR DIVISION AND
ORS

AND
WRIT PETITION NO.7845 OF 2025
RAGHU YALLAPPA KAMBLE
VS
ASSISTANT REGISTRAR CO-OPEARATIVE SOCIETIES KOLHAPUR
DIVISION AND ORS

AND
WRIT PETITION NO.10154 OF 2025
USHA BALASO SANGAVE
VS
ASSISTANT REGISTRAR CO OP. SOC KOLHAPUR AND ORS

AND
WRIT PETITION NO.7839 OF 2025
JAYPAL BABURAO SHIRGAVE
VS
ASSISTANT REGISTRAR CO OP. SOC. KOLHAPUR AND ORS

AND
WRIT PETITION NO.7842 OF 2025
SAVITA NABHIRAJ BIRNALE
VS
ASSISTANT REGISTRAR CO OP. SOC. KOLHAPUR DIVISIONA
AND ORS

AND
WRIT PETITION (STAMP) NO.16835 OF 2025
SUBHASH BABURAO SHIRGAVE
VS
ASSISTANT REGISTRAR CO-OPSOCIETIES KOLHAPUR DIVISION AND
ORS

AND
WRIT PETITION (STAMP) NO.16639 OF 2025
SHOBHA SUBHASH SHIRGAVE
VS

ASSISTANT REGISTRAR CO-OPERATIVE SOCIETIES KOLHAPUR
DIVISION AND ORS

AND
WRIT PETITION NO.10156 OF 2025

NABHIRAJ ANNAPA BIRNALE
VS
ASSISTANT REGISTRAR CO OP. SOC. AND ORS

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Mr. Kuldeep U. Nikam, Advocate for Petitioners.

Mr. J. P. Patil, AGP for Respondents/State.

Mr. Louis S. Shah i/by Mr. Rushabh D. Phade, Advocate for Respondent No.3.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 26th NOVEMBER, 2025.

FINAL ORDER:-

1. The present Writ Petitions take exception to order dated 31.01.2025 passed by Divisional Joint Registrar, Co-operative Societies, Kolhapur, thereby allowing Revision Application preferred by respondent-Society against order dated 27.09.2024 passed by Assistant Registrar, Kolhapur, who had declared petitioners deemed to be members of Society.

2. The petitioners contend that they possessed agriculture lands within command area of respondent no.3-Society, who is engaged into providing irrigation facility to lands' situated within their jurisdiction. The petitioners were interested for membership of respondent no.3-Society. They expressed their willingness to office bearers of Society to join them as members. The petitioners deposited fees towards shares and membership in account of Society. They forwarded their applications for membership through Registered Post. However, they

were not admitted as members. Eventually, they approached Assistant Registrar, Co-operative Societies, Kolhapur/respondent no.1 under Section 23 of Maharashtra Co-operative Societies Act, 1960 (for short 'MCS Act'). The Assistant Registrar declared them to be deemed members of Society. Aggrieved Society assailed order passed by respondent no.1 by filing Revision Application under Section 154 of MCS Act before respondent no.2, who pleased to allow Revision Application observing that respondent no.1 passed order de-hors procedure contemplated under Section 23(2) of MCS Act.

3. Mr. Kuldeep Nikam, learned Advocate appearing for petitioners would submit that Section 23 of MCS Act contemplates open membership. The respondent no.3 refused to entertain claim of petitioners for grant of membership. Eventually, they forwarded applications through Registered Post and deposited requisite fees. In some cases, respondent-Society refused to accept applications sent by RPAD and in respect of others, no cognizance was taken. The petitioners had, therefore, approached respondent no.1 under Section 23 of MCS Act, who after considering rival contentions, object and purport of Sections 23 and 27 declared deemed membership in favour of petitioners. However, respondent no.2 by giving technical reasons set aside order.

4. Per contra, Mr. Louis Shah, learned Advocate appearing for respondent no.3 supports impugned order. He would submit that there

is specific format and procedure for submission of applications for membership. The petitioners never approached Society nor they submitted applications in specified format seeking memberships. The Society had no occasion to consider their admission to membership or refusal of the same. In this backdrop, respondent no.3 would not assume jurisdiction under Section 23(2) of MCS Act. Therefore, no fault can be found in impugned order.

5. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that Chapter III of MCS Act contemplates eligibility of persons to be admitted as member of Society. Section 23 contemplates that no society shall without sufficient cause, refuse admission to membership to person duly qualified under provisions of Act and its bye-laws. Sub-section (1A) of Section 23 provides that if Society refuses to accept application from eligible person for admission as a member, or payment made by him in respect of membership, such person may tender an application in such form as may be prescribed together with payment in respect of membership to Registrar, who can forward application and amount to Society concerned. If Society fails to communicate any decision to applicant within sixty days from date of receipt of such application, applicant shall be deemed to have become member of such Society. Sub-section (2) of Section 23 contemplates that if person is aggrieved

by decision of Society refusing him admission to membership, he can appeal to Registrar.

6. The aforesaid provision in MCS Act would show that concept of open membership to Co-operative Society has been approved under legislation and mechanism is prescribed to deal with situation where Society refuses admission to member. In present case, it can be observed that although petitioners contend that they made applications to Society through Registered Post and same was not considered, it is a matter of record that they did not follow procedure contemplated under sub-Section (1A) of Section 23 of MCS Act. In fact, there has been no refusal of membership to petitioners by Society. In this background, sub-Section (1A) or (2) of Section 23 would not apply. The respondent no.2 was, therefore, justified in allowing Revision Application filed by respondent-Society and setting aside order passed by Assistant Registrar, who erroneously assumed jurisdiction without securing compliance under sub-Section (1A) or (2) of Section 23 of MCS Act. In result, no fault can be found in impugned order.

7. At this stage, Mr. Kuldeep Nikam, learned Advocate appearing for petitioners would submit that petitioners may be given liberty to file fresh applications for their admission to membership of respondent no.3-Society.

8. In response, Mr. Louis Shah, learned Advocate appearing for respondent no.3-Society would urge that petitioners can submit

applications in format to Society and same would be considered as per provisions of Act, Rules and Bye-laws.

9. In aforesaid backdrop, some directions can be given so as to facilitate petitioners to secure membership of respondent no.3-Society. Hence, following order:

ORDER

- a. Writ Petitions stand dismissed.
- b. The petitioners shall be at liberty to file applications in proper format to respondent no.3-Society seeking their membership within period of 21 days from date of this order. The respondent no.3-Society shall provide petitioners formats of membership applications to be submitted to Society, along with other particulars to be complied by proposed members.
- c. Once petitioners submit duly filled applications alongwith requisite membership fees or amount towards shares, Society shall consider petitioners' applications in tune with provisions of Act, Rules and Bye-laws of Society and communicate decision thereof to petitioners within period of 8 weeks from date of submission of applications for membership.

(S. G. CHAPALGAONKAR)
JUDGE