IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 4950 OF 2024

M. K. Chambers Co Operative Housing Society ..Petitioner
(Proposed) Thr. Chief Promoter
Versus
Imtiyaz Ali Muhammad Bangadiwala & Ors. ..Respondents

Mr. Mandar Limaye i/b. Ketan Dhavle for Petitioner.
Mr. Hamid D. Mulla, AGP for State/ Respondent Nos.4 to 6.

CORAM : AMIT BORKAR, J.
DATE : 24 NOVEMBER 2025

PC :

1. The present petition challenges the action of the authorities in relation to the registration of the petitioner society under section 10 of the Maharashtra Ownership Flats Act, 1963. The flat purchasers submitted a proposal through their Chief Promoter seeking registration of the housing society. The Appellate Authority granted the registration. The Promoter of the building challenged that decision. The Revisional Authority set aside the registration and sent the matter back to the registering authority. The registered society has therefore approached this Court.

2. The relevant facts are as follows.

3. The petitioner, through the Chief Promoter, submitted an

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application on 25 August 2022 for registration of the society for both wings A and B. The registration was granted in the first instance. In the appeal filed by the Promoter, the registration was cancelled on the ground that the residents of wing A, who were stated to be in full occupation of the Promoter, were unwilling to join the society. The petitioners then filed a fresh proposal seeking registration only for wing B of the building.

4. The registering authority refused registration on the objection raised by the Promoter. The petitioners filed an appeal under section 152 of the Maharashtra Cooperative Societies Act. The Appellate Authority allowed the appeal and directed registration of the petitioner society. The Promoter thereafter filed Revision Application No. 124 of 2023. The Revisional Authority allowed the revision and remitted the matter to the registering authority to examine compliance with the circular dated 30 July 2004. The petitioner society has therefore filed the present petition.

5. Notice was issued to the respondents. The office report dated 7 November 2025 shows that respondent numbers 1 to 3 have been served. The matter is therefore taken up for consideration.

6. Learned counsel for the petitioner relied on the findings recorded by the Appellate Authority. He pointed out that the entrances of wings A and B, the overhead water tank, the electric

meter rooms and the staircases are separate. The property tax bills are separately issued to each shop owner. Out of 66 members, 35 members from wing B have joined the proposal. This satisfies the statutory requirement of majority under the Maharashtra Cooperative Societies Act. He submitted that the Revisional Authority had no justification to interfere with the order of the Appellate Authority.

7. Learned Assistant Government Pleader supported the order of the Revisional Authority. He submitted that the Appellate Authority failed to consider the circular dated 30 July 2004. The Revisional Authority therefore corrected the error and remitted the matter to the registering authority for examining compliance with the circular. He prayed for dismissal of the petition.

8. After examining the record, it is clear that the Revisional Authority set aside the order of the Appellate Authority only because of the circular dated 30 July 2004. This approach cannot stand. This Court, in *Sadguru Universal CHS Ltd v State of Maharashtra* decided on 11 November 2025, has already held that the circular of 30 July 2004 has no force of law. It was not issued under any provision of the Maharashtra Cooperative Societies Act. It was not authenticated under Article 166 of the Constitution. Such a document cannot be treated as law within the meaning of Article 13 of the Constitution. The State cannot rely on a circular that has no legal status.

9. The real question that remains is whether the proposal meets the factors laid down in paragraphs 18 and 19 of the said judgment. Paragraph 18 lists the mandatory conditions that must be satisfied for registration. Paragraph 19 lists supporting factors that help show compliance. These conditions are grounded in evidence and ensure that the registration process remains fair and transparent. These parameters must be examined by the Appellate Authority in a proper and reasoned manner.

10. In these circumstances, the following order is required to secure justice.

ORDER.

i. The order dated 06 March 2024 passed by the Revisional Authority in Revision Application No. 124 of 2023 is quashed and set aside.

ii. The Appellate Authority shall examine the factual aspects to determine compliance with the parameters laid down by this Court in the above judgment, especially those in paragraphs 18 and 19.

iii. The parties may place material on record to demonstrate compliance with the said parameters.

iv. After giving both sides a fair opportunity, the

Appellate Authority shall record clear findings on the existence of the parameters mentioned in paragraphs 18 and 19 and pass an appropriate order.

v. The petition is disposed of in these terms.

vi. Until the Appellate Authority decides the appeal, the petitioner society shall be permitted to function as a registered society.

(AMIT BORKAR, J.)