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

WRIT PETITION NO.1168 OF 2024

Ragvilas Coop. Housing Society Ltd.,
through it's Chairman & Secretary ... Petitioner
V/s.
State of Maharashtra & Ors. ... Respondents

ATUL
GANESH
KULKARNI

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Mr. Rahul S. Kadam for the petitioner.

Mrs. M.S. Srivastava, AGP for respondent Nos.1 to 3-
State.

Mr. Nitin Gaware Patil with Mr. Harsh Rathod i/by Mr.
Yogesh Thorat for respondent No.4.

Mr. D.D. Shinde for respondent No.5.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 10, 2025

P.C.:

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The petitioner has filed this writ petition against the order passed under Section 22(2) of the Maharashtra Cooperative Societies Act, 1960. The dispute relates to the refusal by the petitioner society to grant membership to respondent No. 4. The society has relied on its Bye law, which states that only employees of the Corporation can become members. Respondent No. 4 is not an employee of the Corporation. Therefore, the society refused his request. The authority under Section 22(2) did not accept this stand of the society and rejected the refusal. This order is under

challenge. The issue before the Court is limited. Whether the authority could ignore the existing Bye law and compel the society to grant membership when the Bye law clearly restricts membership only to employees of the Corporation.

3. The record shows that respondent No. 4 has filed an appeal before the Divisional Joint Registrar. In that appeal he has challenged the validity of the Bye law itself. Respondent No. 4 claims that the Bye law imposing the condition of employment with the Corporation is illegal. The appellate authority has not yet decided this challenge. The question of the validity of the Bye law is therefore pending.

4. At present the position is clear. The Bye law approved by the Registrar remains in force. It permits only employees of the Corporation to become members. Respondent No. 4 is not an employee of the Corporation. Hence, as long as the Bye law stands, the society cannot admit respondent No. 4 as a member. A cooperative society is governed by its Bye laws. These Bye laws bind both the members and the authorities unless they are held to be contrary to the Act or Rules. Unless a competent authority sets aside the Bye law, the society has no legal power to act against it.

5. If the authorities under the Act later decide that the Bye law is invalid and hold that it violates the Act or the Rules, respondent No. 4 will be free to renew his claim for membership. If that situation arises, the society will have to consider his application afresh and admit him as a member, because the earlier bar will no longer exist. At this stage, however, no such finding exists.

Therefore, the refusal by the society based on the existing Bye law cannot be faulted.

6. With this clarification, rule is made absolute in terms of prayer clause (a).

(AMIT BORKAR, J.)