

AGK

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

WRIT PETITION NO.10750 OF 2022

Sanjeev Bhaskar Pathak,

Age: Adult, Occupation Retired,

R/at: 124/12B, Law College Road,

Erandwana, Pune 411 004

... Petitioner

V/s.

ATUL
GANESH
KULKARNI

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- 1. State of Maharashtra,**
through Minister for Cooperation,
Mantralaya, Mumbai.
- 2. State of Maharashtra,**
through Additional Chief Secretary,
Mantralaya, Mumbai, Maharashtra.
- 3. Authorised Officer Dr. Kishor Toshniwal,**
the then Divisional Joint Registrar of
Cooperative Societies, appointed u/s.
88 of the MCS Act, 1960, Rupee Coop.
Bank Ltd., Sakhar Sankul, Shivajinagar,
Pune
- 4. Commissioner for Cooperation &
Registrar for Cooperative Societies,**
Maharashtra State, Central Bldg.,
Pune 411 001.
- 5. Rupee Cooperative Bank Ltd.,**
Pune Plot No.B/C-1, Gultekdi,
Gate No.5, Marketyard, Pune 411 037
- 6. Special Recovery Officer,**
C/o. Rupee Bank Ltd., Plot No.B/C-1,
Gultekdi, Gate No.5, Marketyard,
Pune 411 037

... Respondents

**WITH
WRIT PETITION NO.11957 OF 2022**

Sanjay S. Bhalerao	... Petitioner
V/s.	
Rupee Cooperative Bank Ltd. & Anr.	... Respondents

**WITH
WRIT PETITION NO.9990 OF 2022**

Ravindranath Laxman Mundhe	... Petitioner
V/s.	
State of Maharashtra & Ors.	... Respondents

**WITH
WRIT PETITION (ST.) NO.16609 OF 2022**

Yeshwant Ganesh Kavade	... Petitioner
V/s.	
State of Maharashtra & Ors.	... Respondents

**WITH
WRIT PETITION (ST.) NO.16764 OF 2022**

Satish Balkrishna Gandhe	... Petitioner
V/s.	
State of Maharashtra & Ors.	... Respondents

**WITH
WRIT PETITION (ST.) NO.16765 OF 2022**

Shripad Ganesh Palsule	... Petitioner
V/s.	
State of Maharashtra & Ors.	... Respondents

**WITH
INTERIM APPLICATION (ST.) NO.30861 OF 2024**

Amey Shripad Palsule & Ors.	... Applicants
V/s.	

State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION (ST.) NO.16998 OF 2022**

Shriprakash Shrikrishna Majgaonkar
since deceased through Legal Heirs ... Petitioner

V/s.

State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION (ST.) NO.18786 OF 2022**

Sudhir Sham Padhye ... Petitioner

V/s.

State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION (ST.) NO.18855 OF 2022**

Shirish Vasant Beke ... Petitioner

V/s.

State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION (ST.) NO.18860 OF 2022**

Sanjiv Dattatray Wagh ... Petitioner

V/s.

State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO.11142 OF 2022**

Ramakant Waman Bhalerao ... Petitioner

V/s.

State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO.11228 OF 2022**

Vilas Vishnu Khaladkar ... Petitioner
V/s.
State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO.11233 OF 2022**

Subhash Vanmalidas Gujarathi ... Petitioner
V/s.
State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO.11234 OF 2022**

Shrikant Krishnaji Kanade ... Petitioner
V/s.
State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO.11235 OF 2022**

Chandrakant Digambar Damle ... Petitioner
V/s.
State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO.11139 OF 2022**

Mohan Digambar Deshpande ... Petitioner
V/s.
State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION (ST.) NO.18322 OF 2022
(Not on board)**

Prashant Ghanshyam Gore ... Petitioner
V/s.
State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION (ST.) NO.18466 OF 2022
(Not on board)**

Mahendraji Gokuldas Doshi	... Petitioner
V/s.	
Additional Chief Secretary, State of Maharashtra & Ors.	... Respondents

**WITH
WRIT PETITION (ST.) NO.20911 OF 2022
(Not on board)**

Vipul Gopalkrishna Shouche	... Petitioner
V/s.	
Additional Chief Secretary, State of Maharashtra & Ors.	... Respondents

**WITH
WRIT PETITION NO.11143 OF 2022
(Not on board)**

Late Sitaram Dattatray Panchpor Since deceased through legal heirs	... Petitioner
V/s.	
Additional Chief Secretary, State of Maharashtra & Ors.	... Respondents

**WITH
WRIT PETITION NO.2876 OF 2024
(Not on board)**

Sanjay Vishanath Sontakke, since deceased through legal heirs	... Petitioner
V/s.	
Additional Chief Secretary, State of Maharashtra & Ors.	... Respondents

Mr. R.M. Haridas with Mr. Pratik B. Rahade for the petitioner in WP/11957/2022.

Mr. Shrivallabh Panchpor with Ms. Apeksha Jadhav for the petitioner in WP/9990/2022, WP (St.) Nos. 16609/2022, 16764/2022, 16765/2022, 16998/2022, 10750/2022, 18786/2022, 18855/2022, 18860/2022, 11142/2022, 11228/2022. 11233/2022 11234/2022, 11235/2022, 11139/2022 & IA (St.) No.30861/2024.

Mr. Ratan L. Adhe for the petitioner in WP/11143/2022 (Not on board).

Smt. V.R. Raje, AGP for State in WP/19750/2022 & 9990/2022.

Smt. S.D. Chipade, AGP for State in Wpst/11957/2022.

Ms. Savina R. Crasto, AGP for State in WPSt/16609/2022.

Mr. P.V. Nelson Rajan, AGP for State in WPSt/16764/2022.

Smt. M.S. Srivastava, AGP for State in WPSt/16765/2022.

Mrs. V.S. Nimbalkar, AGP for the State in WP St.18322/2022, St.18466/2022, & WP/2876/2024.

Mr. Pramod N. Patil with Mr. Ajit Hon, Mr. Atharva Deshmukh, & Ms. Mamta Pande i/by PNP & Associates for Rupee Bank & Special Recovery Officer.

Mr. Madhukant Garad, Liquidator for Bank, is present.

Mr. Sharad Raskar, Officer, Rupee Cooperative Bank, is present.

CORAM : AMIT BORKAR, J.

RESERVED ON : OCTOBER 8, 2025

PRONOUNCED ON : OCTOBER 17, 2025

JUDGMENT:

1. Since the questions of law and fact involved in all these writ petitions are identical, all the petitions are being decided together by this common judgment.

2. For convenience of reference, Writ Petition No.10750 of 2022 is treated as the lead matter.
3. All these petitions are filed by managers of the respondent, Rupee Cooperative Bank Limited.
4. In each petition, the petitioner challenges the judgment and order passed by the Appellate Authority exercising powers under Section 152 of the Maharashtra Cooperative Societies Act, 1960 (for short, “the MCS Act”), confirming the order passed by the Authorized Officer under Section 88 of the MCS Act, holding the respective petitioner liable for the amounts mentioned against their names.
5. All petitioners are former managers of the respondent-Bank, which is registered under the provisions of the MCS Act.
6. In February 2002, the Registrar for Cooperation superseded the Board of Directors of the respondent-Bank under Section 110A of the MCS Act. On 14 February 2002, the Registrar ordered an inquiry under Section 83 of the MCS Act based on the inspection report of the Reserve Bank of India and appointed an Authorized Officer to conduct the same. The Inquiry Officer submitted his report on 31 October 2002. Thereafter, on 12 November 2002, the Registrar authorised the same officer to assess the losses caused to the Bank under Section 88 of the MCS Act.
7. On 10 June 2003, the Authorized Officer issued a show-cause notice under Rule 72(2) of the Maharashtra Cooperative Societies Rules, 1961 (“the MCS Rules”) to the Managing Committee and the Chief Executive Officer of the Bank. According

to the petitioners, employees such as Joint General Managers and Branch Managers were not served with any such notice. Subsequently, on 20 October 2003, a charge-sheet under Rule 72(3) of the MCS Rules was issued to the Managing Committee and the Chief Executive Officer.

8. In 2003, the Managing Committee members and one Prakash Kulkarni filed appeals before the State Government under Section 152 of the MCS Act challenging the charge-sheet. On 4 March 2004, the Appellate Authority (State of Maharashtra) allowed those appeals, set aside the charge-sheet and show-cause notice, and directed the Authorized Officer to supply all necessary documents to the Managing Committee members and, thereafter, to issue a fresh charge-sheet with specific charges after considering their defence.

9. On 11 July 2007, a new officer was appointed under Section 88 to continue the proceedings. On 25 January 2008, the Authorized Officer issued a fresh notice to the Board of Directors, Chief Executive Officer, and several employees, from Branch Manager to Joint General Manager, calling upon them to explain why a charge-sheet under Rule 72(2) should not be issued. The petitioners submitted their replies on 17 May 2008, denying the allegations and contending that proceedings under Section 88 were not maintainable against them since they were not “officers” as defined under Section 2(20) of the MCS Act.

10. On 20 August 2008, some employees raised an objection before the Authorized Officer on the same ground of

maintainability, but the objection was rejected. Subsequently, on 27 May 2009, a second show-cause notice was issued, calling upon the petitioners to reply regarding charges related to interest remission. On 5 October 2009, a charge-sheet under Rule 72(3) of the MCS Rules was issued.

11. On 1 February 2010, this Court admitted Writ Petition No. 710 of 2010 challenging the rejection of the maintainability objection by order dated 28 August 2008. However, no interim relief was granted.

12. The petitioners filed their reply to the charge-sheet on 25 May 2010. After completion of inquiry, the Authorized Officer sought permission from this Court to issue a final order under Section 88. By order dated 25 January 2016, this Court permitted the Authorized Officer to proceed, clarifying that the final report could be challenged before the appropriate forum in accordance with law.

13. On 2 February 2016, the Authorized Officer issued his final report under Section 88, holding the employees, along with the Board of Directors, responsible for losses allegedly caused to the Bank on account of their participation in its business and management.

14. Aggrieved by the report under Section 88, the petitioners filed appeals on 21 March 2016 before the State Government under Section 152 of the MCS Act. The State Government granted interim stay to the effect and operation of the report till the disposal of the appeal. On 6 March 2018, powers of the State

Government in such matters were delegated to the Additional Chief Secretary. The appeals were finally heard on 21 January 2020 and were kept for judgment. On *30 December 2021*, the Additional Chief Secretary dismissed the appeals, confirming the report under Section 88. Hence, the present writ petitions came to be filed in July 2022.

15. Mr. Panchpor, learned Advocate for the petitioners, argued that both the Authorities failed to establish any act of misfeasance or breach of trust as required under Section 88. It was submitted that the petitioners never sanctioned any loans; at most, their role was to make recommendations such as “renewal may be considered”, which does not amount to fresh disbursement. The sanctioning power rested with the Managing Committee or the Board of Directors. Both Authorities failed to consider the evidence and cross-examination on record and ignored the mandatory procedure under Rule 72 of the MCS Rules. The orders do not show how the petitioners, who were employees and not decision-makers, could be held responsible for financial losses. The Appellate Authority also failed to discuss their individual roles and merely made a general observation that the petitioners participated in management. There is no finding that the petitioners misappropriated funds. The petitioners further contended that the Bank’s circular dated 23 May 2001, relied on to classify them as “officers” under Section 2(20) of the MCS Act, was wrongly applied since it did not cover the period under inquiry, which extended from 14 July 1997 to 14 February 2002.

16. It was further argued that the Authorised Officer ignored the petitioners' cross-examination and evidence, and concluded that they were guilty of misfeasance merely because certain loan accounts were classified as Non-Performing Assets (NPAs). Neither the Authorised Officer nor the Appellate Authority examined the specific role of each petitioner, nor gave any reasoned findings. Their orders contain only vague and general conclusions.

17. In support of these submissions, reliance was placed on the judgments in *Shriram Dhonduji Raut vs. Bahu Uddesiyab Sahakari Sanstha Virsi & Ors.* (2003 SCC OnLine Bom 915; 2004(3) Bom CR 383), *M.L. Kalra vs. Union of India & Anr.* (2008 SCC OnLine Del 1210), and *Chandrashekhar S. Bhole vs. Bhandari Co-operative Bank Ltd. through Liquidator & Ors.* (2017 SCC OnLine Bom 9389).

18. In Writ Petition No. 11957 of 2022, Mr. Haridas, learned Advocate for the petitioner, submitted that the petitioner was a Senior Manager against whom six charges were framed, out of which five were dropped, and only one was upheld. The loans in question were sanctioned before the petitioner joined the Bank. The Managing Committee, by its resolution dated 12 February 2001, had rejected the proposal for fresh loan and recommended only renewal of existing limits. The petitioner merely forwarded the proposal to the Deputy General Manager, who also recommended renewal but suggested an additional project loan of Rs. 24 lakhs. That recommendation was rejected by the General Manager. Despite this, the General Manager was exonerated, and the petitioner was held liable. It was submitted that the charge is

vague, unsupported by evidence, and that the petitioner had no role in decision-making. Therefore, he cannot be held personally liable under Section 88 of the MCS Act.

19. Mr. Pramod N. Patil, learned counsel appearing for the respondent-Bank, submitted that under Bye-law No. 36(xxi), the Reserve Bank of India's letter dated 28 May 1997, Circulars dated 26 August 1997 and 18 November 1997, and the Loan Rules of 1992, particularly the Rule governing Loan Application and Appraisal, the officers of the Bank had a definite and responsible role in the process of loan sanction and approval. It was their duty to carefully examine each proposal for cash credit facilities, interest remission, and principal remission as per the prescribed procedure and to record their views by way of recommendations or rejections. The administrative notes produced in each case show that, despite clear deficiencies and shortcomings in the loan proposals examined by the petitioners, they chose to recommend or approve them. Therefore, it cannot be accepted that the officers holding managerial posts, entrusted with the responsibility of scrutinising loan proposals as per the Rules, were free from accountability. Their conduct clearly falls within the scope of misfeasance or breach of trust as contemplated under Section 88 of the MCS Act, 1960.

20. It was further submitted that in the show-cause notices issued to each of the officers, the proposed charges were specifically mentioned in the annexures with reference or serial numbers. After considering their replies, certain charges were dropped, and for the charges that were retained, clear reference

numbers were given in the annexure to the notice. Hence, it is incorrect to suggest that charges were not framed, were vague, or were not properly stated. The proceedings were conducted in full compliance with the procedure laid down under Rule 72 of the Maharashtra Cooperative Societies Rules, 1961.

21. The Bank and the Authorized Officer placed all relevant material and documents against each officer on record through a witness examined on behalf of the Bank. The said witness was thoroughly cross-examined by the concerned officers. However, his testimony remained consistent and credible. None of the officers, on the other hand, entered the witness box to give evidence in their own defence or to rebut the material placed against them.

22. The Authorized Officer, after considering the documentary evidence, written submissions, and oral arguments of both sides, has recorded detailed findings against each charged officer. These findings are supported by reasons and are based on the evidence available on record. Therefore, it cannot be said that the findings of the Authorized Officer are perverse, arbitrary, or contrary to law.

23. From the above facts, it is clear that the Appellate Authority had the jurisdiction and authority to hear and decide the appeals filed by the petitioners under Section 152 of the MCS Act. The contention that the Appellate Authority lacked jurisdiction is without merit.

24. The findings and reasoning of the Authorized Officer stand affirmed and merged with those of the Appellate Authority. Even

assuming that there are some minor deficiencies in the findings or reasoning of the Authorized Officer, the same cannot be a ground to set aside the impugned orders, as the Appellate Authority has independently reappreciated the material and recorded its own clear and well-reasoned conclusions. The findings of the Appellate Authority are based on relevant evidence and a proper consideration of the rival submissions made before it.

25. In view of the above discussion, the petitioners have failed to make out any case for interference with the concurrent findings of fact recorded by both the authorities below. The impugned orders do not suffer from any illegality, procedural irregularity, or perversity warranting exercise of the supervisory jurisdiction of this Court under Articles 226 and 227 of the Constitution of India.

26. I have heard the learned advocates appearing for all the parties at length and have carefully perused the pleadings, documents, and material placed on record.

27. For the purpose of adjudicating the issues raised in these writ petitions, it is necessary to refer to Section 88 of the MCS Act, 1960, which confers power upon the Registrar to assess and recover damages against delinquent promoters, officers, or persons concerned with the management of a co-operative society. The said provision reads as follows:

“88. Power of Registrar to assess damages against delinquent promoters, etc. —(1) Where, in the course of or as a result of an audit under Section 81 or an inquiry under Section 83 or an inspection under Section 84 or the winding up of a society, the Registrar is satisfied on the basis of the

report made by the auditor or the person authorised to make inquiry under Section 83 or the person authorised to inspect the books under Section 84 or the liquidator under Section 105 or otherwise that any person who has taken any part in the organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to [the date of commencement of such audit or date of order for inquiry, inspection or] winding up, misapplied or retained, or become liable or accountable for, any money or property of the society or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may frame charges against such person or persons, and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or the property or any part thereof, with interest at such rate as the Registrar or the person authorised under this Section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine:

Provided that, proceedings under this sub-section, shall be completed by the authorised person within a period of one year from the date of issue of order by the Registrar:

Provided further that, the Registrar may, after recording the reasons therefor, extend the said period for a maximum period of six months:

Provided also that, the Government may, on the report of the Registrar or suo moto, for the reasons to be recorded in writing, extend the said period as may be required, from time to time, to complete the proceedings under this sub-section:

Provided also that, in case of the proceedings under this sub-section which have not been completed within the aforesaid period on the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 2017, the Government may, on the report of the Registrar or suo moto, for the reasons to be recorded in writing, extend the period, from time to time, for completion of such proceedings as may be required.

(2) The Registrar or the person authorised under sub-section (1) on making any order under this Section, may provide therein for the payment of the cost or any part thereof, as he thinks just and he may direct that such costs or any part thereof shall be recovered from the person against whom the order has been issued.

(3) This Section shall apply, notwithstanding that the act is one for which the person concerned may be criminally responsible.”

28. This provision lays the foundation for determining whether any person who has been part of the organisation or management of a co-operative society has caused loss to it by misapplying its funds, retaining property unlawfully, or committing misfeasance or breach of trust. It also empowers the Registrar to recover such loss by way of repayment or contribution, after following the procedure prescribed under Rule 72 of the Maharashtra Cooperative Societies Rules, 1961. The provision further mandates that such liability can be imposed only when the acts complained of have occurred within five years prior to the commencement of the audit, inquiry, inspection, or winding up, and only after giving the concerned person a fair opportunity to defend himself.

29. The issues arising in the present petitions, therefore, require an examination of the nature and scope of the Registrar's powers under Section 88, the procedural safeguards embedded in the provision and Rule 72, and whether, on the facts of the case, the findings recorded by the authorities below are supported by credible and reliable evidence.

30. Section 88 of the Maharashtra Co-operative Societies Act, 1960 confers a quasi-judicial power on the Registrar to assess and recover losses caused to a co-operative society by acts of misfeasance, breach of trust, or misconduct by its officers, promoters, or any officer involved in its management. The following principles govern when such liability can be fastened.

31. For invoking jurisdiction under Section 88 of the MCS Act, 1960, the foremost requirement is the existence of foundational material showing that a officer connected with the management of the society has committed acts resulting in financial loss to the society. The power under Section 88 is not to be exercised on suspicion, assumptions, or general allegations. It must rest upon credible and tangible material which demonstrates, with clarity, that a specific act or omission by the concerned officer has caused misapplication, retention, or misuse of the society's funds or property.

32. The statute expressly provides that such satisfaction of the Registrar must arise in the course of or as a result of an audit under Section 81, an inquiry under Section 83, an inspection under Section 84, a report of the liquidator under Section 105, or

from any other reliable source. Each of these statutory processes has its own evidentiary value and serves as the legal foundation for forming an opinion.

33. The audit report under Section 81 primarily examines the correctness of accounts, the financial position of the society, and compliance with accounting principles. If the audit discloses diversion of funds, unauthorised expenditure, or falsification of accounts attributable to a particular officer, such findings become relevant foundational material for further action under Section 88.

34. The inquiry under Section 83 is a fact-finding process ordered by the Registrar when there are allegations of mismanagement or irregularity. The report submitted under this section carries evidentiary weight because it is based on recorded statements, examination of documents, and findings after due notice to the society. If such report indicates specific acts of misfeasance or breach of trust, it constitutes sufficient basis for framing charges under Section 88.

35. Similarly, the inspection under Section 84 allows the Registrar or a person authorised by him to examine books, accounts, and records of the society. When such inspection discloses irregularities or manipulation of records traceable to identified individuals, those findings form part of the foundational evidence required for proceeding further.

36. The report of the liquidator under Section 105 also holds importance. When a society is in liquidation, the liquidator is under duty to scrutinise past transactions and identify those

responsible for loss to the society. His report, if it records definite acts of misappropriation or breach of trust, provides a proper basis for initiating Section 88 proceedings against the concerned person.

37. Apart from these, the Registrar can also rely on any other reliable source, which must, however, be supported by documentary or verifiable material. This expression does not authorise action on mere complaint or oral allegation. The “reliable source” must have evidentiary worth, such as a government audit, police report, or other legally recognised record.

38. The Registrar’s satisfaction under Section 88 must therefore be based on objective assessment of material, not on mere administrative assumption. The law expects the Registrar to record his satisfaction in writing, supported by reference to the documents or reports which disclose the irregularity. This prevents misuse of power.

39. A mere irregularity or administrative lapse cannot justify action under Section 88. For example, if a record is not properly maintained, or a procedural lapse occurs without financial implication, it may invite departmental correction but not penal consequence under Section 88. The section is meant to recover losses caused by culpable conduct, not to punish procedural omissions.

40. Therefore, before framing charges, the Registrar must establish from the foundational material that (i) There exists a specific act or omission by a officer connected with management;

(ii) Such act or omission has caused actual financial loss to the society; and (iii) The material relied upon is credible, traceable to statutory audit, inquiry, inspection, or other authentic source.

41. In absence of such foundational material, initiation of proceedings under Section 88 would be impermissible. The existence of credible and definite evidence linking the act of the individual to the loss is thus a condition precedent to the valid exercise of power by the Registrar.

42. The meaning of the word “officer” under Section 2(20) of the MCS Act is very important for deciding who can be made personally responsible under Section 88 of the Act. Section 88 allows recovery of loss caused to a cooperative society by misapplication, misfeasance, or breach of trust. But before holding anyone liable, the authority must first decide whether the person falls within the legal meaning of “officer.”

43. The Act defines word “officer” as follows. Section 2(20): “officer” means a person elected or appointed by a society to any office of such society according to its by-laws; and includes [any office bearer such as a chairperson, vice-chairperson, president, vice-president, managing director, manager, secretary, treasurer, member of the committee and any other person, by whatever name called,] elected or appointed under this Act, the rules or the by-laws, to give directions in regard to the business of such society;

44. This definition is the starting point for deciding who can be proceeded against and who cannot. It prevents arbitrary action against ordinary employees who had no control over the affairs of

the society.

45. Under Section 2(20), an “officer” means any person who is elected or appointed by a society to hold an office according to its by-laws. This means only those who hold a post of responsibility or control can be treated as officers. It does not include every employee.

46. In simple words, two types of persons come within this meaning. Those who are elected to a position under the by-laws, for example, the Chairperson, President, Vice-President, or Managing Committee Members; and those who are appointed to a position under the Act, Rules, or the by-laws, for example, Manager, Secretary, Treasurer, or Managing Director.

47. Hence, this definition restricts the meaning of “officer” to persons who hold key posts in management and carry responsibility for the society’s financial and administrative affairs. It protects lower-level employees, who merely follow instructions, from being wrongly held liable.

48. The law also expands the meaning of “officer” by including any office-bearer or person who gives directions in regard to the business of the society, regardless of the name of the post. This means that even if a person is not formally an elected committee member, if he holds a post that gives him authority to control, direct, or influence the society’s business, he is still an “officer.” For example, a Manager or Chief Executive Officer who examines loan proposals and gives recommendations. A Branch Manager or Deputy General Manager who has authority to scrutinize or

approve financial dealings. A Secretary or Treasurer who maintains accounts, supervises disbursement, or controls daily operations. Therefore, the title of the post is not important, what matters is the nature of powers and functions. If a person has the authority to guide or decide on matters of the society's business, he falls within the legal definition of "officer."

49. Section 88 empowers the Registrar to hold accountable any person "who has taken any part in the organization or management of the society." This power can be exercised only against those who fall within the meaning of "officer" under Section 2(20).

50. Thus, the provision applies not just to elected office-bearers but also to appointed officers who had control over financial or managerial affairs, such as the Manager, Secretary, or Chief Executive Officer.

51. However, ordinary employees who perform routine tasks, like clerks, cashiers, or peons, cannot be treated as "officers." They simply execute orders; they do not have authority to make decisions or direct business operations. The law does not intend to hold such employees personally liable under Section 88.

52. The clear object of this definition is to fix accountability only on persons who had control, discretion, or influence over the society's financial or administrative matters. The law does not punish those who merely performed subordinate or technical work under instructions.

53. Before initiating proceedings under Section 88, the Registrar must therefore establish two things through credible evidence (i) that the person comes within the meaning of “officer” as per Section 2(20); and that he had actual power to take or influence decisions concerning the society’s business or financial affairs. Only after proving these two conditions can the authority proceed to examine whether such person committed misfeasance, breach of trust, or negligence resulting in loss to the society.

54. The law is clear that designation alone is not enough to impose liability. A person may hold the title of “manager” or “officer,” but if his role was only to process papers without any decision-making authority, he cannot be held responsible for losses. The authority must rely on credible and specific evidence to show that (i) The person actually held a position covered under Section 2(20); (ii) He had the power to direct or manage business decisions; and (iii) He used or neglected those powers in a way that caused financial loss to the society. If such evidence is not available, no liability can be imposed merely because the person happened to be employed with the society when the loss occurred. The law insists on proof of personal and direct involvement in the act that caused the loss.

55. For fixing liability under Section 88 of the MCS Act, 1960, it must be clearly proved that the act or omission of the officer has directly caused financial loss to the society. The section is meant to make a officer personally responsible only when he has acted dishonestly, negligently, or in breach of his duty. Every irregularity or mistake does not lead to such liability. The act complained of

must be one which shows misuse or wrongful handling of the society's money or property.

56. First, an officer becomes liable when he misapplies the society's money or property. This means he uses the funds of the society for a purpose not authorised by law or by the society's rules. For example, if an officer makes unauthorised withdrawals from the bank account, grants advances without sanction, or diverts funds to persons not entitled to receive them, it amounts to misapplication. In such a case, the officer can be directed to repay the misused amount with interest.

57. Second, liability arises when an officer retains society's money without authority. If an officer collects money on behalf of the society and fails to deposit it within the prescribed time, or keeps it for personal use, it is a case of unauthorised retention. Even delay in deposit, if done knowingly or for personal benefit, attracts responsibility. The moment the officer holds the society's money without proper authority, he becomes answerable for it.

58. Third, an officer becomes liable or accountable for money or property of the society when loss occurs due to his negligent supervision or failure to act as per his duty. For instance, if a branch manager allows the cashier or another employee to handle cash without proper checks and the money is lost or misappropriated, the manager may be held accountable for failure to ensure control. This liability flows from his position of responsibility, not necessarily from direct misappropriation, but from carelessness that caused loss to the society.

59. Fourth, an officer is liable if he commits misfeasance or breach of trust. Misfeasance means doing an act wrongly or with bad faith. Breach of trust means using the position of confidence for an unlawful or dishonest purpose. For example, if a manager knowingly recommends loans without verifying documents, approves fake securities, or falsifies records to favour certain borrowers, it is misfeasance. Similarly, if an officer knowingly conceals information or acts in a manner contrary to the society's interest, he breaches the trust placed in him.

60. The key element in all such cases is the presence of dishonest intention, wilful negligence, or breach of duty. Dishonest intention means an act done with knowledge that it will harm the society or benefit another person unlawfully. Wilful negligence means deliberate inaction despite knowing that the act is likely to cause loss. Breach of duty arises when a officer entrusted with a particular responsibility fails to perform it with due care and honesty expected from him.

61. However, where there is no dishonest motive or wilful neglect, and the act is merely a bona fide error of judgment or a procedural lapse without loss to the society, Section 88 cannot be applied. The law does not punish mistakes committed in good faith. It only holds accountable those whose conduct has resulted in real and measurable financial loss to the society due to bad faith or gross negligence.

62. Therefore, before imposing liability under Section 88, the Registrar must ensure that the act complained of falls within these

categories and that the loss suffered by the society can be directly linked to that act. Only then can the officer be directed to restore the amount or compensate the society. This ensures that honest officers are not harassed for performing their duties in good faith, while those who act dishonestly or carelessly are made personally responsible for the loss they have caused.

63. While examining the issue of liability, the Registrar must therefore identify (i) what specific act or omission caused the loss; (ii) who was responsible for that act; and (iii) whether the evidence shows dishonesty, willful negligence, or breach of trust.

64. When a proceeding is initiated under Section 88 of the MCS Act, 1960, the liability of a officer must rest on specific, proved acts of misapplication, retention, misfeasance, or breach of trust. The power under Section 88 is quasi-judicial and must be exercised on concrete material showing that the officer concerned was personally responsible for the loss caused to the society. Mere negligence, error in judgment, or routine discharge of duty without dishonest intent is not sufficient to attract liability.

65. The parameters for attracting liability under Section 88 for the appointed officer:

(i) The material on record must show that the officer personally misapplied or retained the funds of the society or facilitated their misuse. If the act of loss originates in a decision taken by the Committee, and the officer has not played any role beyond recommending the proposal on available documents, he cannot be held personally liable.

(ii) The concept of “misfeasance” under Section 88 implies a willful act done with knowledge that it is likely to cause loss to the society. A mere error in assessment, or reliance on documents produced by the borrower, cannot be equated with misfeasance. The intent to cause wrongful gain to another or wrongful loss to the society must be established by evidence.

(iii) If the officer has acted beyond his authority, for instance, by recommending a loan without verifying the genuineness of securities, or by suppressing adverse facts known to him, or by deliberately manipulating figures to secure sanction, such conduct would amount to misfeasance. In that event, Section 88 proceedings can be rightly invoked.

(iv) The Registrar must be satisfied that the loss suffered by the society is the direct result of the officer’s conduct. There must be a clear causal link between his act and the loss. A vague or indirect allegation that the proposal processed by him led to loss is insufficient. The loss must flow from a specific act of breach of duty, not from the collective decision of the sanctioning authority.

(v) If the investigation reveals that the officer derived any personal gain, received any consideration, or colluded with the borrower or members of the committee for wrongful advantage, such facts would strengthen the inference of misfeasance or breach of trust.

(vi) Every officer of a co-operative bank owes a duty of diligence and honesty. Failure to exercise due care may invite departmental or disciplinary action. But for invoking Section 88, there must be proof of misconduct that has financial implications on the society's assets.

66. In the case of a Manager of a co-operative bank, his role in processing loan proposals is primarily administrative. He is required to collect information, verify documents, assess the financial capacity of the borrower, and place the proposal before the Managing Committee for sanction. Once the proposal is submitted, the decision to sanction or reject lies entirely with the Managing Committee or the Board. A Manager who only processes the loan proposal and forwards it for sanction, after recording the available facts, cannot be held liable under Section 88 unless evidence shows that he deliberately acted in a manner that facilitated the misapplication of society's funds. The responsibility of sanctioning rests with the Managing Committee. Unless the Manager's recommendation was tainted by fraud, collusion, or suppression of material facts, he cannot be said to have committed misfeasance or breach of trust. Therefore, the Manager cannot be held liable merely because he processed the proposal which later resulted in loss, unless there is credible evidence showing his personal involvement in irregularities that caused such loss. For example, if a Branch Manager sanctions or recommends loans in violation of the society's bye-laws, without proper verification of securities or financial capacity of the borrower, and the loans later turn bad, he may be held personally liable. In such a case, the loss

is directly traceable to his failure to perform his duty honestly and diligently. However, if the loan proposal was approved by the Managing Committee after considering the recommendation, and the manager's role was limited to administrative processing, then the liability cannot be fastened on him merely because loss occurred later. In essence, the test is whether the Manager's conduct shows personal culpability that directly contributed to the financial loss. If his role was limited to performance of duty in the usual course, and the loss arose from the collective decision of the sanctioning authority, the ingredients of Section 88 are not satisfied.

Personal liability of a elected officer:

67. For fixing personal liability of a elected officer under Section 88 of the MCS Act, 1960, the law requires that his role in the affairs of the society must be examined carefully and proved with credible evidence. The mere fact that a officer was a elected member of the managing committee at the time when loss occurred does not automatically make him personally responsible. Liability under Section 88 is not collective or presumptive. It must be based on proof of individual acts of misfeasance, breach of trust, or negligence which have caused actual financial loss to the society.

68. The following parameters guide how and when personal liability can be fixed on a elected officer.

- (i) To hold a elected officer personally liable, there must be clear evidence that he participated in or approved the act

that caused loss. The managing committee functions collectively, but each member's role must be assessed individually. If the member was absent from meetings, or had no role in the transaction leading to loss, he cannot be held responsible merely because he was a part of the committee. The principle of personal culpability applies. The law does not impose liability by virtue of position alone, but by virtue of proven involvement in the wrongful act. For instance, if the managing committee passes a resolution sanctioning loans in violation of the bye-laws or in breach of eligibility conditions, only those members who voted in favour or knowingly supported the decision can be held responsible. Those who opposed it or were absent cannot be saddled with liability.

(ii) The conduct of the elected officer must show one of the following (i) Misfeasance means performing a lawful act in a wrongful manner, such as approving advances without verifying securities, or ignoring audit objections deliberately. (ii) Breach of trust means using his position for personal gain, helping relatives or associates in securing loans, or concealing irregularities. (iii) Negligence means failing to act when duty required him to prevent loss, or neglecting to supervise matters entrusted to the committee. Ordinary mistakes of judgment or minor procedural lapses cannot amount to misfeasance or breach of trust. There must be a finding of deliberate or grossly careless conduct which directly resulted in loss to the society.

(iii) The most important test is whether the loss suffered by the society can be directly linked to the act or omission of the elected officers. The Registrar must show through records, minutes, or audit findings that the loss flowed as a result of the decision or approval given by those members. If the loss arose due to reasons beyond his control, such as market fluctuations, borrower's insolvency, or systemic failure, they cannot be held liable under Section 88. The causal link between the act and loss must be established by documentary or reliable evidence, not by presumption or general allegation.

(iv) Liability becomes personal when the member acted with bad faith or dishonest intention. If the material shows that he knowingly participated in wrongful sanction of loans, favoured certain borrowers, or derived personal benefit from the transaction, the finding of misfeasance or breach of trust becomes justified.

(v) While managing committee decisions are taken collectively, individual accountability must still be identified. The Registrar must note who moved or supported the resolution, who signed the minutes, and whether any member recorded dissent. The record of committee meetings is the best evidence to determine participation. Liability cannot be imposed equally on all members unless evidence shows that the act was done jointly with common participation.

(vi) Even where liability is proved, it must be limited to the extent of actual loss caused by that elected member's act or omission. The Registrar cannot impose arbitrary or collective recovery. If several members are jointly responsible, the liability must be apportioned based on their role and involvement. For example, if the chairman and vice chairman were the main decision-makers, and other members only approved on their assurance, a larger share of liability must fall on the principal actors.

Requirement of Due Process under Rule 72:

69. Before imposing such liability, the Registrar must follow the procedure prescribed under Rule 72 of the MCS Rules. This includes issuing a detailed notice with particulars of misconduct, framing of specific charges, allowing the member to submit a written defence, and conducting a fair hearing. No finding of liability can stand if the officer was not given a proper opportunity to defend himself.

70. In summary, for fixing personal liability of a elected officer under Section 88, there must be (i) clear proof of his personal involvement or approval in the wrongful act; (ii) evidence of misfeasance, breach of trust, or gross negligence; (iii) direct connection between his act and the financial loss; and (iv) fair hearing following the procedure of Rule 72.

71. Only when these parameters are satisfied on credible and reliable evidence can the Registrar justly hold a elected officer personally liable to repay or compensate the society. Otherwise,

such liability would be contrary to law and violative of the principles of natural justice.

Limitation of five years:

72. The law under Section 88 of the MCS Act, 1960 sets a clear time limit for taking action against an officer for misconduct. This limitation is not a mere formality. It serves an important purpose. It ensures that proceedings are based on recent and provable facts, and that no officer is made to face action for very old matters where records, witnesses, and evidence may no longer be available.

73. The section clearly provides that the alleged act of misapplication, retention, misfeasance, or breach of trust must have taken place within five years before the date when either the audit commenced, or the order for inquiry, inspection, or winding up was passed. This means that if the wrongful act happened more than five years before these events, no proceedings can be started under Section 88.

74. This limitation period protects officers from being harassed for remote acts of management that have become stale with time. It also encourages the Registrar to act promptly once any irregularity comes to notice. Law does not intend to keep a sword hanging indefinitely over the heads of those who have served in the management of the society.

75. To determine whether the act falls within limitation, the Registrar must first identify the exact date or period of the alleged misconduct. Then, he must check whether that act occurred within

five years before the commencement of audit or the passing of order for inquiry, inspection, or winding up. Only if the act falls within that period can the proceedings be validly initiated.

76. For example, if an audit started on 1st January 2024, only acts committed after 1st January 2019 can be examined under Section 88. Any act before that date is barred by limitation. Similarly, if an inquiry order was issued on 1st March 2024, then only the acts done after 1st March 2019 can be made subject of the inquiry and recovery process.

77. This restriction ensures that the Registrar's action remains just and reasonable. Without such limitation, even past office-bearers or officers who left long ago could be drawn into proceedings for events forgotten over time. That would be contrary to natural justice.

78. However, this five-year period applies only to the act of misconduct, not to the time taken for completing the inquiry once lawfully initiated. Once proceedings are properly commenced within limitation, they can continue even beyond the five-year period, provided the alleged act itself occurred within that window.

79. In simple terms, the Registrar cannot re-open or investigate every act in the society's long history. He must confine his examination to those transactions or acts which fall within five years preceding the audit, inquiry, inspection, or winding up. Any act older than that becomes legally dead for the purpose of Section 88.

80. Therefore, before framing charges, the Registrar must record a clear finding that the alleged act of misconduct occurred within the prescribed five-year period. If the material shows that the act is older, the proceedings would be without authority of law and must be set aside. This ensures that action under Section 88 is based only on recent, verifiable, and credible evidence, not on outdated or speculative allegations.

Procedure under rule 72:

81. When action is proposed under Section 88 of the MCS Act, 1960, it is not enough for the Registrar to merely rely on the audit or inquiry report. The law gives every officer accused of misconduct a right to defend himself before any liability is imposed. This principle flows from the rule of natural justice which requires that no one should be condemned without being heard. Rule 72 of the Maharashtra Cooperative Societies Rules, 1961 lays down a detailed procedure to ensure this safeguard is followed.

82. The procedure under Rule 72 is mandatory in nature. It ensures that the decision of the Registrar is not arbitrary, but is based on tested and credible evidence. It begins with the Registrar receiving a report under Section 88 or any other material indicating that loss has occurred to the society due to certain acts of misapplication, retention, misfeasance, or breach of trust. Once such report is received, the Registrar may make further inquiry to verify facts, examine records, and determine whether there is a prima facie case for action.

83. After such inquiry, if the Registrar finds that there are grounds to proceed, he must issue a notice to the officer concerned. The notice must contain clear particulars of the alleged acts, the nature of misconduct, and the exact extent of financial liability proposed to be fixed. The officer must also be informed that he may file a written statement in his defence within fifteen days. This notice stage is important because it gives the accused officer an opportunity to understand the exact nature of allegations and to present his explanation. A vague or general notice without specific particulars is not sufficient.

84. Once the defence statement is received, the Registrar must carefully consider whether there exist reasonable grounds to frame formal charges. Framing of charges marks the beginning of a quasi-judicial proceeding. It signifies that the Registrar has applied his mind and found some substance in the allegations. Only after framing of charges can the officer be called upon to produce his documentary or oral evidence.

85. Thereafter, the Registrar or the authorised officer must conduct a hearing similar to a trial. Both sides, the society and the officer charged, are given a fair chance to produce their evidence, cross-examine witnesses, and file documents in support of their case. The Registrar is duty-bound to record all evidence and then fix a date for hearing arguments from both sides.

86. After considering the evidence and hearing both sides, the Registrar must pass a reasoned order within sixty days from the date of completion of hearing. This order may direct repayment or

restoration of society's money, return of property, or contribution to society's assets as compensation for loss caused. If the Registrar finds that the allegations are not proved, he must reject the claim. The order must also mention whether costs of the proceeding are to be paid by either party.

87. The Registrar must supply a copy of the final order to the concerned officer within ten days of passing it. This requirement ensures that the officer is immediately informed of the outcome and can take further legal remedies if necessary.

88. The reasoning behind these procedural safeguards is clear. Section 88 proceedings have serious civil consequences. A finding under this section can make an officer personally liable to pay large sums to the society. Therefore, the Legislature has ensured that before any such liability is fixed, the officer gets full opportunity to present his side. Any action taken without following Rule 72 would be illegal, as it violates the fundamental principle of natural justice.

89. Thus, before holding any officer liable under Section 88, the Registrar must strictly follow the procedure under Rule 72. There must be (i) a notice containing clear particulars of allegations, (ii) opportunity to file written defence, (iii) framing of specific charges, (iv) right to produce evidence, (v) hearing of both sides, and (vi) a reasoned final order based only on evidence on record. Only such a process, based on credible and tested evidence, gives legal validity to the order passed under Section 88.

90. The power given to the Registrar under Section 88 of the MCS Act, 1960 is mainly to ensure that any loss caused to a co-operative society due to misconduct or misuse of power by its officers is recovered and restored to the society. The purpose of this section is not to punish, but to compensate the society for the financial loss it has suffered because of wrongful acts or negligence of those who were responsible for managing its affairs.

91. Once the Registrar, after following the due procedure under Rule 72, finds that a particular officer has caused loss to the society, he can pass an order directing such officer to repay or restore the money or property to the society. This means that if the officer has taken away, misused, or unlawfully retained any amount or property belonging to the society, he can be directed to return it. The amount must be equal to what was misapplied or retained, so that the society is made whole again.

92. In some cases, the Registrar may find that the loss cannot be directly recovered in the same form as it was lost. For example, if the person's act of negligence led to bad debts or financial damage, the Registrar can direct that officer to contribute a sum by way of compensation to the assets of the society. This contribution is not a fine or penalty. It is a compensatory payment intended to make good the financial damage that resulted from the person's act of misfeasance, breach of trust, or negligence.

93. The Registrar also has the power to levy interest on the amount to be repaid. This is because when society's money remains wrongfully in the hands of another person, the society

loses the use of that money. To compensate for that loss, interest can be added. The rate of interest is determined by the Registrar based on the nature of misconduct, the duration of wrongful retention, and the financial position of the society.

94. The extent of liability fixed under Section 88 must always be proportionate to the actual loss caused or the wrongful gain made by the concerned person. The Registrar cannot impose an arbitrary or excessive amount. If the evidence shows that the officer was only partly responsible for the loss, liability must be confined to that proportion. Similarly, if several persons are jointly responsible, the Registrar must apportion liability between them according to the degree of their involvement and the benefit they derived.

95. This proportional approach prevents misuse of Section 88 proceedings. The law aims to make the society recover its losses, not to impose punishment or undue hardship on those who acted without dishonest intention. Therefore, the Registrar must base his final order on clear calculations supported by evidence, showing how much loss occurred, how it was caused, and what part of it is attributable to each person's act.

96. In summary, the power of compensation or recovery under Section 88 is meant to restore to the society what it has lost. The Registrar may order repayment, restoration of money or property, or contribution of compensation with reasonable interest. But the measure of liability must be strictly in proportion to the proven loss or wrongful gain, supported by credible and reliable evidence. Only such balanced and evidence-based orders fulfil the true object

of Section 88, which is to protect the assets of the society through a lawful process.

97. The law under Section 88 of the MCS Act, 1960 not only provides power to the Registrar to recover losses caused to a society but also fixes a clear time limit for completing such proceedings. This is to ensure that action under this section is taken promptly and does not drag on for years, causing hardship to the persons involved and delaying justice to the society.

98. The proviso to sub section (1) of Section 88 make it mandatory that the proceedings under Section 88 must ordinarily be completed within one year from the date the Registrar issues the order authorising the inquiry or assessment of damages. This period of one year starts from the date when the Registrar or his authorised officer begins the process of framing charges and examining the evidence.

99. The reason behind prescribing this time limit is simple. Section 88 proceedings have serious civil consequences. They can lead to a finding of personal liability and order for repayment of large amounts. Such proceedings, if kept pending indefinitely, create uncertainty and mental distress for the concerned officers or officers. At the same time, long delays also affect the recovery of society's money. The law, therefore, insists that the process should be time-bound and result-oriented.

100. However, the law also recognises that in some cases, genuine reasons may cause delay. To meet such situations, the Registrar is allowed to extend the period by six months, but only after

recording reasons in writing. This safeguard ensures that extension is not granted mechanically or for convenience. The Registrar must justify why the proceeding could not be completed within the first year, whether due to non-cooperation of parties, voluminous records, or any unavoidable administrative reason.

101. If the proceeding still cannot be completed even after this additional six months, the State Government has the power to grant further extensions. But even the Government can do so only upon a written report by the Registrar, and by recording its reasons in writing. This system of controlled extension ensures accountability at every stage. It prevents the misuse of power and ensures that proceedings are not kept pending indefinitely under the excuse of inquiry.

102. The object of fixing these procedural timelines is to bring certainty and discipline to the process. The persons facing proceedings should know that their matter will be decided within a fixed period, and the society should also know when to expect recovery. Delay not only weakens evidence but also defeats the very purpose of Section 88, which is to make prompt recovery of losses suffered by the society.

103. In simple terms, the law expects the Registrar to act with promptness. The proceeding must be completed within one year, extendable only in justified cases, six months by the Registrar, and thereafter, further extension only by the State Government on proper record of reasons.

Sub-section (2):

104. This sub-section empowers the Registrar or the authorised officer to include in his final order a direction regarding payment of costs of the proceedings. The term “costs” refers to the expenses incurred in conducting the inquiry or assessment, such as administrative expenses, examination of records, and any other procedural costs borne by the society or the Registrar’s office during the inquiry.

105. The sub-section gives the Registrar discretion to decide who should bear these costs. He can direct that the entire cost, or only a part of it, be paid by the officer against whom the order is issued, depending on the facts of the case. The phrase “as he thinks just” makes it clear that this power must be exercised judiciously.

106. For example, if the inquiry clearly establishes that a manager or officer misapplied society’s funds and caused financial loss, the Registrar may direct not only repayment of the misused amount but also payment of the costs incurred in conducting the inquiry. This ensures that the burden of the proceedings does not fall on the society, which is already a victim of the misconduct.

107. On the other hand, if the inquiry reveals partial responsibility or negligence by more than one person, the Registrar may apportion costs proportionately between them. However, if the officer is found not guilty of misfeasance or breach of trust, he cannot be saddled with costs. The decision to impose costs must always be supported by recorded reasons and should correspond to the conduct and responsibility of the officer concerned.

108. In short, sub-section (2) ensures that the society's funds are not further depleted in recovering losses caused by wrongdoers. The costs of inquiry follow the result of the case, and those responsible for the loss must bear the expenses of the process that established their misconduct.

Sub-section (3):

109. Sub-section (3) clarifies that Section 88 proceedings are independent of criminal proceedings. This means that even if the same act of misconduct amounts to an offence under the Indian Penal Code or any other criminal law, the Registrar can still proceed under Section 88 to assess and recover damages from the officer responsible.

110. The purpose of Section 88 is to recover loss and compensate the society, not to punish the offender. Criminal prosecution, on the other hand, is meant to punish the offender for violating the law. Both proceedings can run independently because their objectives are different.

111. For instance, if an officer of a cooperative bank misappropriates funds, the act may attract criminal charges under sections relating to criminal breach of trust or cheating. The Registrar, however, need not wait for the outcome of the criminal trial. He can simultaneously assess the loss to the society and direct repayment or restoration under Section 88. The fact that criminal prosecution is pending does not prevent or suspend the civil recovery process under this section.

112. This provision ensures that the recovery of society's money is not delayed due to the lengthy nature of criminal proceedings. The society's interest is protected by allowing prompt civil recovery, even while the question of criminal guilt is being examined by the court.

113. However, the Registrar must base his findings only on credible evidence available in the audit, inquiry, or inspection report, and not rely on mere suspicion or unproven criminal allegations. His satisfaction under Section 88 must arise from the material before him, independent of the outcome of the criminal case.

114. Thus, these two sub-sections together ensure that (i) the society is fully compensated for its loss, including expenses of recovery, and (ii) the process of recovery remains independent of criminal proceedings, so that justice is not delayed and the society's financial interest is protected efficiently.

Reasoning and findings:

115. Having considered the rival submissions and upon examining the record, I find that the matter requires remand to the Authorized Officer for fresh consideration for the following reasons, each supported by the material and the settled legal principles governing proceedings under Section 88 of the MCS Act, 1960 and Rule 72 of the Maharashtra Cooperative Societies Rules, 1961.

116. The order passed by the Authorized Officer does not contain any clear or specific finding showing what exact act or omission by

each petitioner caused the Bank to suffer financial loss. The findings are written in general terms and treat all persons alike, without distinguishing between the decision-making powers of the Managing Committee and the limited administrative roles of the officers. The law requires the Registrar or Authorized Officer to find, on the basis of evidence, that a particular act or omission by each officer amounted to misfeasance, breach of trust, or negligence, and that it directly caused measurable loss to the society. Unless these elements are clearly proved and recorded, no personal liability can be fastened on anyone.

117. A officer working as a manager performs administrative functions such as verifying documents, preparing notes, and forwarding proposals for approval. The final authority to sanction or reject the proposal rests with the Managing Committee or Board of Directors. Unless there is evidence that the officer acted dishonestly, manipulated records, or knowingly concealed facts to favour a borrower, he cannot be said to have committed misfeasance or breach of trust. The Authorized Officer's order does not refer to any such material. It does not show which proposal was wrongly recommended, what irregularity was overlooked, or how that led to actual loss.

118. This omission strikes at the very root of the proceedings. Section 88 deals with personal liability, not collective or assumed responsibility. A finding that "officers participated in management" is too vague to establish culpability. The law does not punish officers merely for being part of the process, it punishes only those whose conduct is proved to have caused wrongful loss to the

society.

119. Such lack of analysis has caused serious miscarriage of justice. When a statute like Section 88 imposes personal monetary liability, the findings must be based on concrete evidence, not on assumptions or collective generalisations. The liability under Section 88 is not vicarious. It cannot be inferred merely because a officer held a position in the Bank when the irregularity occurred. Each person's responsibility must be individually determined, with reasons recorded and supported by documents or witness evidence.

120. Therefore, the findings in the impugned order do not meet the legal standard required for holding a officer liable under Section 88. The orders fail to show the connection between the petitioner's conduct and the loss suffered by the Bank. The absence of such clear and specific reasoning renders the conclusions unsustainable in law.

121. Rule 72 of the Maharashtra Cooperative Societies Rules, 1961 lays down a clear and structured procedure for conducting an inquiry under Section 88 of the MCS Act, 1960.

122. First, specific charges must be framed against the officer concerned. Each charge must clearly mention the nature of the alleged act or omission, the date or period during which it occurred, and the extent of loss alleged to have been caused to the society. This helps the officer understand exactly what misconduct he is being accused of.

123. Second, the officer must be given copies of all supporting

documents and particulars relied upon by the authority, so that he can properly prepare his defence. The right to defend oneself effectively includes the right to know the exact case one has to meet.

124. Third, the rule requires that the officer should be given a reasonable opportunity to file his written statement and to produce his own documents or witnesses in support of his defence. He must also be allowed to cross-examine witnesses produced by the society or the Authorized Officer.

125. Finally, findings must be recorded separately on each charge. The Authorized Officer has to discuss the evidence, weigh the submissions of both sides, and give a clear conclusion for every charge, whether it is proved, partly proved, or not proved. This is necessary to show that the decision was made after applying mind to each allegation, and not on a general impression or collective assumption.

126. However, in the present case, the material on record shows that these safeguards were not properly followed. Although notices were issued to the petitioners, the order passed by the Authorized Officer does not show whether each charge was properly framed or supported by evidence. There is no discussion showing what evidence was examined for each specific allegation or how the defence of the petitioners was considered.

127. The absence of such a detailed and reasoned finding shows lack of application of mind. It prevents the Court from understanding how the conclusions were reached and whether

they are supported by evidence. Such an order cannot stand scrutiny, because it fails to satisfy the requirement of a “speaking order”, which must show the reasoning behind the decision.

128. In proceedings under Section 88, where serious civil consequences follow, the inquiry must strictly conform to Rule 72. When liability is fixed without identifying which charge is proved and without recording specific findings supported by credible evidence, the order becomes incomplete and unsustainable in law.

129. In any quasi-judicial proceeding, especially one under Section 88 of the MCS Act, findings cannot rest merely on general references to examination of witnesses. The authority is expected to discuss the evidence in detail. It must show what the witness stated, which documents supported his statement, and whether such evidence was credible, consistent, and sufficient to establish liability. The order in this case does not contain any such discussion. Without analysing evidence, the conclusions drawn lose their foundation in law.

130. The petitioners had, on their part, filed detailed written statements denying the allegations and had raised specific defences. They had pointed out that they were not sanctioning authorities, that their role was limited to forwarding or recommending proposals, and that no material showed any dishonest intention or misfeasance on their part. These defences went to the root of the matter and required specific consideration. However, there is nothing in the impugned order to show that these defences were examined or answered. The omission to

consider them violates the basic principles of natural justice.

131. When a statutory authority is empowered to decide questions involving civil consequences, it acts in a quasi-judicial capacity. This means it must record reasons, and base its conclusions on evidence placed on record. Recording of reasons is not a formality. It demonstrates application of mind, and allows the appellate or reviewing authority to understand how the decision was reached. An order that fails to disclose reasoning or assessment of evidence cannot be upheld merely because the authority refers to the existence of a witness or document.

132. In the present case, the order contains conclusions but no reasoning. It does not explain how the oral evidence of the Bank's witness or the documentary evidence proved against the petitioners establishes misfeasance, negligence, or breach of trust. It also does not specify which part of the petitioners' defence was rejected and why. The absence of such reasoning makes the findings purely conclusory and not judicially sustainable.

133. Therefore, the omission of the Authorized Officer to analyse the evidence, to evaluate the credibility of the Bank's witness, and to deal with the specific defences raised by the petitioners, renders the order defective in law. The findings thus recorded cannot be treated as a valid determination of liability under Section 88. The matter must, therefore, be reconsidered by the competent authority after a proper and reasoned evaluation of all oral and documentary evidence, and after addressing each defence specifically in accordance with law.

134. In the present case, the order of the appellate authority does not show how this connection was established. The order merely states that the petitioners “participated in management” or “processed proposals” which allegedly led to loss, but it does not explain how such participation caused that loss. There is no detailed computation or reasoning showing how the total loss was calculated, nor how much of that loss is attributable to the act of each petitioner.

135. For example, when a bank or cooperative society suffers loss on account of loans turning bad, it is necessary to show that the loans were sanctioned due to a wrongful recommendation or negligence of a specific officer, that such act violated rules or bye-laws, and that but for such act, the loss would not have occurred. This causal link must be demonstrated through documents, minutes of meetings, or audit reports. Mere assumption that the officer’s involvement “must have” contributed to the loss is not enough.

136. The order passed by the Appellate Authority also suffers from a clear lack of independent reasoning and proper application of mind. Instead of re-examining the findings of the Authorized Officer as required by law, the Appellate Authority has merely repeated the same conclusions without any separate or independent analysis. The order reads more like an endorsement than an adjudication.

137. Under Section 152 of the MCS Act, the Appellate Authority has a distinct and important duty. It is not expected to

mechanically approve what the lower authority has done. Its role is to review the legality, propriety, and correctness of the order under appeal, both on facts and on law. The appellate authority must satisfy itself that the procedure prescribed under Rule 72 of the Maharashtra Cooperative Societies Rules, 1961 has been strictly followed, that the findings of the Authorized Officer are supported by credible evidence, and that the conclusions drawn are proportionate.

138. In the present case, there is no indication that such scrutiny was carried out. The Appellate Authority has not examined whether the Authorized Officer had framed specific charges as required under Rule 72, whether the petitioners were given full opportunity to defend themselves, or whether the evidence relied upon was sufficient and reliable. The appellate order is silent on these crucial procedural safeguards, which are the foundation of any valid inquiry under Section 88.

139. Another serious omission is the absence of discussion on proportionality of liability. Section 88 permits recovery only to the extent of loss caused by each person's individual act. The Appellate Authority should have examined whether the liability fixed on each petitioner was proportionate to his role and responsibility. Instead, it accepted the findings of collective liability without considering whether all officers bore the same degree of fault or whether their functions were distinct.

140. This shows a complete absence of independent application of mind. The Appellate Authority's duty is quasi-judicial, it must

weigh evidence, analyze defences, and arrive at its own conclusion. By merely reproducing the reasoning of the Authorized Officer without engaging with the issues raised in appeal, the authority failed to perform its statutory role.

141. Such an approach defeats the very purpose of appellate scrutiny. The appellate stage is meant to correct mistakes of fact or law committed by the lower authority and to ensure that justice is done. When the Appellate Authority fails to examine whether the basic procedural requirements were followed, or whether findings were based on credible evidence, it compounds the error instead of correcting it.

142. In proceedings that impose personal financial liability, the Appellate Authority must act with great care and precision. It must discuss (i) Whether the inquiry under Rule 72 was lawful. (ii) Whether evidence led before the Authorized Officer justifies the findings. (iii) Whether the amount of liability fixed is proportionate and reasonable. None of these aspects are addressed in the appellate order before this Court. The order is thus incomplete, mechanical, and devoid of reasoning. The absence of such independent analysis renders the appellate decision unsustainable in law.

143. The Court finds it impossible to fix personal liability of each petitioner in these writ proceedings. The questions are mainly factual. They require close scrutiny of records, witness testimony and documentary proof. The Court cannot, on the paper now before it, say what exact role each petitioner played. The Court

cannot say which specific acts or omissions are proved against whom. The Court cannot say how much of the total loss, if any, is attributable to each person. These issues call for detailed fact-finding. Only such a detailed process can produce the credible evidence required to fasten individual liability under Section 88. Writ jurisdiction under Articles 226 and 227 is not the right forum for such reappraisal of primary facts. This Court's function in writ proceedings is to test legality, fairness and procedure. It is not to conduct a trial or reweigh evidence afresh. The material before this Court shows gaps in the earlier findings, absence of separate discussion of each charge, and want of proper evaluation of defences and documentary proof. Those defects go to the heart of the inquiry under Section 88 and Rule 72.

144. For those reasons the matter must be sent back to the competent authority for fresh inquiry and determination in accordance with law.

145. Accordingly, order dated *30 December 2001* passed by the Additional Chief Secretary, Government of Maharashtra acting as the Appellate Authority under Section 152 of the MCS Act, and the order dated 2 February 2016 passed by the Authorized Officer under Section 88 of the said Act, in all petitions, are hereby quashed and set aside.

146. The matter is remanded to the Authorized Officer for fresh consideration and decision in accordance with law, after giving all concerned parties due opportunity of hearing and following the procedure prescribed under the Act and Rules.

147. The Authorized Officer shall, while conducting the fresh inquiry, strictly follow the procedure laid down in Rule 72.

148. The fresh inquiry shall be completed within a reasonable time, preferably within six months from the date of receipt of this order.

149. For the reasons stated therein, Interim Application (St.) No.30861 of 2024 stands allowed.

150. All pending interlocutory applications stand disposed of.

(AMIT BORKAR, J.)

Note: This Judgment is modified as per order dated 11 November 2025. Corrections carried out in pages 10, 33, and 53 are shown in italicize.