

Shabnoor

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

WRIT PETITION NO.6679 OF 2024

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AYUB
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Dharmesh Mulji Solanki & Ors.

... Petitioners

V/s.

The Assistant Registrar,
Cooperative Societeis & Ors.

... Respondents

Mr. Satish R. Mishra a/w Divya T. Ranpise, for the
petitioners.

Ms. Savina R. Crasto, AGP for the State – respondent
No.1.

Mr. Prashant P. Kulkarni, for respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 7, 2025

P.C.:

1. In this petition, the petitioners challenge two orders. The first order was passed on 28 November 2023 by Respondent No.1. The second order was passed on 8 April 2024 by the Divisional Joint Registrar, Cooperative Societies. By these orders, Petitioners Nos.1 to 6 were disqualified under Section 75(5) of the Maharashtra Cooperative Societies Act, 1960. After the disqualification, Respondent No.1 passed another order under Section 77A. That order appointed an Authorised Representative to take charge of Respondent No.4 Society. The petitioners submit that both these orders are illegal and deserve interference.

2. The record shows that elections of Respondent No.4 Society took place on 1 October 2021. After the election, Respondent No.2 filed a complaint before the concerned authority. Respondent No.1 then initiated proceedings under Section 75(5) of the Act. This section permits the authority to disqualify committee members if they fail to perform their statutory duties. On this basis, Respondent No.1 disqualified the petitioners. Once they stood disqualified, Respondent No.1 invoked Section 77A. That section allows the authority to appoint an Authorised Representative to run the affairs of the society when the managing committee cannot function. The petitioners challenge these actions and state that the authority acted without proper inquiry, without considering relevant material, and without following the principles laid down by this Court.

3. While examining the impugned orders, this Court finds that the authorities failed to consider binding legal principles. In the case of *Kailas Maheshwari v State of Maharashtra*, decided on 25 September 2025, this Court laid down clear requirements. The authority must verify whether the alleged default is proved by reliable material. The authority must confirm that the default relates to a statutory duty under Section 75. The authority must ensure that the proposed action is proportionate and necessary. In another judgment, *Vijay Lakhi v Minister of Co operation*, decided on 6 October 2025, the Court reiterated that disqualification under Section 75(5) affects a democratically elected body. Therefore, such action must be supported by concrete evidence and proper reasoning. In both these judgments, the Court held that the

authority cannot mechanically disqualify elected managing committee members. The authority must examine the facts, give the committee an effective opportunity to explain, and record clear findings based on evidence.

4. In the present case, these parameters were not followed. The impugned orders do not show application of mind. The orders do not record reasons. The orders do not consider whether the alleged breach was intentional or whether the petitioners acted without justification. The authorities did not evaluate whether appointment of an Authorised Representative under Section 77A was the only available option. They ignored the legal standards laid down by this Court in *Kailas Maheshwari* and *Vijay Lakhi*. When the law requires a particular process, the authority must follow that process. Failure to follow mandatory legal requirements renders the orders invalid. Therefore, the orders dated 28 November 2023 and 8 April 2024 cannot stand in law. Both are quashed and set aside. The matter is remanded to Respondent No.1. Respondent No.1 shall decide the proceedings afresh. Respondent No.1 shall follow the directions and principles laid down by this Court in *Kailas Maheshwari*.

5. The writ petition is disposed of in these terms. There shall be no order as to costs.

(AMIT BORKAR, J.)