

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

CIVIL WRIT PETITION NO. 9002 OF 2024

Gajanand Dadheech (Chairman) & Anr.

..Petitioners

Versus

Divisional Joint Registrar of
Co-operative Societies & Ors.

..Respondents

Mr. Jyotiram S. Yadav for Petitioners.

Mrs. V. S. Nimbalkar, AGP for State/Respondent Nos.1, 2 & 5.

Mr. Umesh Sharma, Respondent No.3 (party in person) present.

CORAM : AMIT BORKAR, J.

DATE : 07 NOVEMBER 2025

PC :

1. The petitioners have questioned the orders passed by the authorities under Section 75(5) of the Maharashtra Cooperative Societies Act. The authorities have held that the petitioners stand disqualified. Disqualification of elected members affects the functioning of the society. Such a decision must rest on a clear finding of facts. It must show that the members have failed in statutory duties. Therefore, the Court must examine whether the authorities followed the correct legal test before imposing such a serious consequence.

2. After going through the impugned orders, it becomes clear that the authorities have not applied the legal test laid down

by this Court in the case of *Kailash Mahashwari versus State of Maharashtra in Writ Petition No. 10587 of 2025*. In that judgment, this Court had explained how the power under Section 75(5) must be used. The authority must identify specific acts or omissions of the committee. There must be evidence showing that the committee has failed to perform statutory duties, and that such failure has caused prejudice to the society. The authority cannot rely on assumptions or broad allegations.

3. The impugned orders do not show any discussion of these parameters. They do not show whether the authority examined the records to find out whether the committee was prevented by unavoidable circumstances. They do not show that the authority considered whether the alleged failure was deliberate or whether it caused harm. When a statute gives power to disqualify elected representatives, such power must be exercised with care. This Court has consistently held that a reasoned decision based on evidence is necessary. Absence of such reasoning makes the decision unsustainable.

4. Since the legal parameters laid down by this Court were not followed, the orders dated 24 April 2024, 23 November 2023 and 7 May 2024 cannot stand. The findings are not supported by reasons. The disqualification is based on an incorrect approach. Therefore, the said orders are quashed and set aside.

5. The matter is sent back to Respondent No. 2. The

authority shall decide the case again. The authority shall consider the parameters laid down by this Court in *Kailash Mahashwari*. The authority shall evaluate the evidence and record clear reasons. The decision must show an application of mind to the facts and to the law.

6. The parties shall remain present before the Deputy Registrar on 17 November 2025. Both parties will get an opportunity to place their documents and submissions.

7. The Deputy Registrar shall decide the matter within eight weeks from the date the parties appear. The authority shall pass a reasoned order after considering the material and applying the correct legal tests.

(AMIT BORKAR, J.)