

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

CIVIL WRIT PETITION NO. 9908 OF 2024

Seema Vithal Uphale & Ors.

..Petitioners

Versus

The State of Maharashtra & Ors.

..Respondents

Mr. V. M. Parkar for Petitioners.

Mrs. V. S. Nimbalkar, AGP for State/ Respondent Nos.1 to 4.

CORAM : AMIT BORKAR, J.

DATE : 25 NOVEMBER 2025

PC :

1. The petitioners are managing committee members of the housing society. They question the orders passed under Section 88 of the Maharashtra Co-operative Societies Act. They submit that the inquiry was conducted in a manner contrary to the procedure laid down in the Act and the Rules. The grievance is that the inquiry affects their civil consequences. Therefore, the inquiry must be held strictly in accordance with law.

2. I have examined the record. The roznama of the Appellate Authority dated 16 January 2020 shows a clear statement made on behalf of the authorized officer. He admitted that he had not afforded the petitioners the opportunity to produce their evidence as required under Rule 72(4). This admission goes

to the root of the matter. Rule 72 is not a formality. It is a safeguard provided to the person against whom an adverse inquiry is undertaken. Non-observance of such safeguard vitiates the inquiry.

3. This Court has already explained the contours of an inquiry under Section 88 in the case of *Sanjeev Pathak versus State of Maharashtra in Writ Petition No. 10750 of 2022* with connected matters. In paragraphs 81 to 89, and again in paragraphs 67 and 68, the Court laid down in clear terms the duties of the authorized officer. The Court held that notice of the proposed charges must be given. The person concerned must be afforded a reasonable opportunity to meet the allegations. The authorized officer must record reasons on each charge. These directions apply in full force to every inquiry under Section 88. Any deviation results in denial of fair procedure.

4. In this case, the authorized officer did not comply with Rule 72. The record leaves no doubt on this issue. Once the breach is established, the inquiry cannot stand. The law does not permit an inquiry to proceed in disregard of the mandatory requirements. The failure renders the continuation of the earlier inquiry unsustainable.

5. The proper course is to remit the matter. The authority must consider continuation of the inquiry after ensuring compliance with the Act and the Rules.

6. The Registrar, who is respondent No. 4, shall appoint a fresh authorized officer. The appointment shall be for holding the inquiry from the stage after framing of charges.

7. The newly appointed authorized officer shall grant a clear and effective hearing to the petitioners. He shall also allow them to produce their evidence as provided in Rule 72(4). He shall then complete the inquiry and submit his report within six months from the date of appointment.

8. The relief granted in this judgment will apply to the petitioners alone.

9. The petition is disposed of.

(AMIT BORKAR, J.)