

Shabnoor

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

WRIT PETITION NO.9136 OF 2023

Omega Paradise Phase 1,
Cooperative HSG Soc. Ltd. ... Petitioner

V/s.

State of Maharashtra Through
Its Secretary & Ors, ... Respondents

WITH

WRIT PETITION NO.13128 OF 2024

Parthasarathy Rangachary & Anr. ... Petitioners

V/s.

State of Maharashtra Through
Its Secretary & Ors, ... Respondents

Mr. Prashant Kshirsagar (through V. C.) i/by Sarvadnya
Legal Associates for petitioner in WP/9136/2023.

Mr. G. N. Salunke a/w Mr. R. S. Hatkar a/w Mr. Sharad
Suryavanshi for petitioner in WP/13128/2024.

Mrs. V. S. Nimbalkar, AGP for State – respondent No.1,
2 & 5 in WP/9136/2023.

Mr. R. S. Pawar, AGP for State – respondent Nos.1 in
WP/13128/2024.

Mr. Chetan Alani a/w Bhushan Bhagule for respondent
in WP/9136/2023.

Mr. Sugandh Deshmukh a/w Mr. Aniket Kanawade a/w
Ms. Karishma Shinde for respondent No.2 in
WP/13128/2024.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 31, 2025

P.C.:

1. By these present petitions, the petitioners are challenging the order dated 1 November 2023 passed by respondent No.1 (the Revisional Authority) in purported exercise of power under Section 154 of the Maharashtra Cooperative Societies Act, 1960 (“the Act”). The challenge specifically assails the sustainability of the impugned order, which seeks to validate the audit report dated 28 June 2023 and the test report dated 30 June 2023, despite such reports lacking the statutory characteristics of a conclusive or enforceable decision under the Act.
2. The petitioners contend that the invocation of revisional jurisdiction under Section 154 is patently misconceived, as the foundational documents under challenge do not constitute determinative orders affecting legal rights.
3. This Court, upon a harmonious interpretation of Section 154 and the statutory scheme of the Act, finds substantial force in the petitioners’ contention. The recent judgment of this Court in **Dattatraya Mahadev Ugale & Ors. v. The State of Maharashtra & Anr.** (decided on 10 May 2024) authoritatively clarifies that an audit report or a test report, being preliminary or investigative in nature, cannot be construed as a “decision” or “order” within the ambit of Section 154 of the Act. The Court in *Ugale* underscored that the revisional jurisdiction under Section 154 is confined to examining decisions, awards, or orders that conclusively determine rights or obligations of parties, and not to procedural or preparatory documents such as audit/test reports. Consequently,

the impugned order passed by the Revisional Authority, being founded on a jurisdictional error in treating the reports as revisable, is rendered non est in law.

4. In light of the binding precedent in *Ugale* and the evident lack of jurisdiction, the Rule is made absolute in terms of prayer clause (a).

5. While allowing the petitions, it is expressly clarified that the setting aside of the Revisional Authority's order shall not preclude the respondents or any aggrieved party from assailing the audit report and the test report through appropriate statutory mechanisms. This Court refrains from expressing any opinion on the merits of the reports, leaving it open to the parties to agitate their rights in accordance with law.

6. All contentions of the parties, including those not expressly adjudicated herein, are kept open.

7. The writ petitions are accordingly disposed of in the above terms. No order as to costs.

(AMIT BORKAR, J.)