

AGK

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

WRIT PETITION NO.4704 OF 2025

Rameshwar Cooperative Housing
Society Ltd., through it's Secretary
& Ors.

... Petitioners

V/s.

Divisional Joint Registrar, Coop.
Societies, Konkan Division & Ors.

... Respondents

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**WITH
WRIT PETITION NO.165 OF 2025**

Neelkanth Heights Cooperative
Housing Society & Ors.

... Petitioners

V/s.

Divisional Joint Registrar, Coop.
Societies, Konkan Division & Ors.

... Respondents

Mr. Akshay Patil with Mr. Kalpesh U. Patil for the
petitioners in both the WPs.

Mr. Sanjay D. Rayrikar, AGP for respondent Nos.1 & 2-
State in WP/4704/2025.

Ms. Savita Prabhune, AGP for the State in
WP/165/2025.

Mr. Vedant Bende i/by Mr. Mandar Limaye for
respondent No.2-TMC in WP/165/2025.

Mr. Saket Mone with Mr. Shrey Shah and Mr. Bhupen
Garud i/by Vidhii Partners for respondent No.3 in
WP/4704/2025 & for respondent no.1 in
WP/165/2025.

CORAM : AMIT BORKAR, J.

DATED : APRIL 9, 2025

P.C.:

Writ Petition No.4704 of 2025:

1. Issue notice to the respondent No.4, returnable on **23 April 2025**.
2. In addition to the service of notice through Court, petitioners are permitted to serve respondent No.4 personally and file affidavit of service before the next date of listing.
3. Respondent No.4 shall file his personal affidavit explaining his position, more particularly with reference to the allegations contained in amended paragraphs 30A to 30F of the writ petition. It is imperative that the affidavit be comprehensive, dealing with each of the allegations specifically and in detail. The respondent No.4 is put to notice that failure to furnish a satisfactory or sufficient explanation in relation to the said allegations shall entail consequences in accordance with law, including an adverse inference being drawn against him. In this regard, it is pertinent to advert to the law laid down by the Hon'ble Supreme Court in *Union of India v. K.K. Dhawan*, (1993) 2 SCC 56, wherein it was held that disciplinary action or adverse orders may be warranted where acts or omissions on the part of a public officer are grossly negligent, reckless, or actuated by mala fides. The Hon'ble Supreme Court observed that mere errors of judgment simpliciter would not amount to misconduct; however, where conduct indicates mala fides, gross or deliberate negligence, or a clear dereliction of duty, action can and must be taken. Therefore, the obligation on respondent No.4 to furnish a complete and cogent

explanation assumes greater significance.

4. In light of the aforesaid principles, respondent No.4 shall file his personal affidavit, as directed, within a period of two weeks from today, without fail. It is clarified that mere denials or evasive replies shall not be sufficient compliance and the affidavit must meet the allegations with appropriate and specific explanations supported, if necessary, by relevant documents.

5. It is further made clear that no further extension of time or adjournment shall be granted to respondent No.4 for filing his affidavit or for explaining his position on the subject-matter of the present writ petition. Therefore, in the interest of justice and to avoid protraction of proceedings, it is made clear that respondent No.4 shall adhere strictly to the time-frame prescribed hereinabove. Failure to comply with these directions may result in the matter being proceeded ex parte against respondent No.4 and orders being passed on merits without any further reference to him.

6. Stand over to **23 April 2025**. To be listed under the caption **circulated matters**.

Writ Petition No.165 of 2025

7. Stand over to **23 April 2025**. To be listed under the caption **circulated matters**.

(AMIT BORKAR, J.)