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

WRIT PETITION NO.4760 OF 2025

Ogast Anantrao Patil & Ors. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr. Drupad S. Patil i/by Mr. Dheeraj Patil for the petitioners.

Mr. Sanjay D. Rayrikar, AGP for respondent Nos.1 to 4-State.

Mr. Bhooshan R. Mandlik for respondent No.5-Society.

Mr. Chetan G. Patil for respondent No.6.

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CORAM : AMIT BORKAR, J.

DATED : APRIL 9, 2025

P.C.:

1. Arguable questions are raised. Hence, **rule.**
2. The question which requires serious adjudication in the present case is whether members of a Milk Supply Society, who were enrolled as members in the year 2021, can now be removed from membership on the ground that they have ceased to fulfill the eligibility criteria for becoming a member, by resorting to the powers under Section 11 of the Maharashtra Cooperative Societies Act, 1960 ("the Act"). The interplay between the provisions of Section 11 and Section 35 of the Act, read with Rules 28 and 29 of the Maharashtra Cooperative Societies Rules, 1961 ("the Rules"), thus requires a deeper and purposive consideration.

3. At the outset, it is necessary to note that Section 11 of the Act deals with the qualification for membership of a society. It stipulates the conditions precedent for a person to be eligible for admission as a member of a co-operative society. However, Section 11 primarily governs the stage of admission to membership, and its application is generally prospective. Once a person has been duly admitted to membership in accordance with law, the question of his removal or cessation of membership falls to be considered under other specific provisions of the Act, such as Section 35.

4. Section 35 empowers the Registrar to direct the expulsion of a member who acts in a manner prejudicial to the interests of the society or who willfully deceives the society. Rule 28 and Rule 29 of the Rules further regulate the procedure to be adopted for expelling a member, ensuring compliance with principles of natural justice. Thus, the power of removal of a member post-admission cannot be casually or indirectly invoked under Section 11, but must be exercised strictly in accordance with Section 35, after following due process.

5. It is also well settled that the eligibility for admission and the eligibility for continuation of membership stand on distinct footings. While eligibility is assessed at the stage of admission, the continuance of membership thereafter is subject to the member's conduct and compliance with statutory obligations, but not necessarily the continuing fulfillment of the original eligibility conditions, unless the statute specifically mandates so.

6. In view of the above, the matter calls for a strict interpretation of the relevant statutory provisions to preserve the rights of the members and to ensure that the sanctity of the process laid down under the Act and Rules is not diluted. The powers conferred upon the authorities must be exercised within the bounds of law, in accordance with the principles of natural justice, and having regard to the object and purpose of the cooperative movement, which is founded on democratic functioning and autonomy of cooperative societies.

7. Hence, until further orders, there shall be interim relief in terms of prayer clause (b).

(AMIT BORKAR, J.)