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

WRIT PETITION NO.9183 OF 2025

Aftab Aejazuddin Alam

... Petitioner

V/s.

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

... Respondents

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Mr. Imran Amjad Khan i/by Mr. Naqvi Shahood Anwar
Ul Hasan for the petitioner.

Mrs. V.R. Raje, AGP for respondent Nos.1 and 2-State.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 27, 2025

P.C.:

1. The petitioner is a member of the housing society. He challenges the Judgment and Order passed by the authorities under the Maharashtra Cooperative Societies Act, 1960. The grievance relates to the withdrawal of a notice issued under Section 75(5) of the Act. He submits that such withdrawal is contrary to the material placed before the authority.

2. The petitioner had filed an application on 12 October 2023 before respondent No.2. He stated that the annual report for the financial year 2021 to 2022 was not presented before the general body as required under Section 75 of the Act. According to him, there was no proposal or disclosure regarding appropriation of the reserve fund of the society for the concerned year. He further stated that there were no plans or proposals regarding the use of

surplus funds. The audit report of the previous year was not submitted within the time prescribed by law. The rectification report in Form O arising from the audit objections was also not submitted within the required period. He also stated that the society failed to appoint an auditor in a general body meeting and that the auditor appointed was not declared before the general body.

3. Respondent No.2 issued a show cause notice calling for an explanation on the irregularities raised by the petitioner. The society submitted its reply. By order dated 8 May 2024, respondent No.2 accepted the explanation of the society. The authority recorded that the audit report for the financial year 2021 to 2022 was placed before the general body. The general body rejected the same. The society then sought a re audit by its letter dated 25 April 2023. In that general body meeting, resolution No.2 was passed to appoint an auditor for the year 2022 to 2023 and to submit the rectification report. The Registrar accepted the submission of the managing committee that the obligation to submit the re audit report rested with the earlier managing committee because the present managing committee took charge after the financial year 2021 to 2022.

4. The revisional authority heard both sides. It recorded that the present managing committee took charge on 22 May 2022 for the term covering the years 2022 to 2023 till 2026 to 2027. It held that the present committee was not responsible for acts of the earlier managing committee for the year 2021 to 2022. It further recorded that the re audit report for the financial year 2021 to

2022 was placed before the general body. The general body rejected it since there is no provision requiring the placing of a re audit report before the general body.

5. Learned counsel for the petitioner submitted that the newly elected managing committee must comply with Section 75(2)(vii). According to him, the said provision casts a duty on the managing committee to submit the rectified audit report. On that basis, he argued that the impugned Judgment and Order deserve to be quashed.

6. On examining the memo of the revision application and the pleadings in the present writ petition, a clear position emerges. The petitioner alleges that certain members of the managing committee have incurred disqualification. However, those very members have not been impleaded. A proceeding under Section 75(5) of the Maharashtra Cooperative Societies Act deals with the civil consequences of disqualification. Such a proceeding affects the rights of the concerned committee members in a direct manner. Fairness requires that they be given notice and an opportunity to place their defence. No authority can decide the question of their disqualification behind their back.

7. In the absence of impleadment of the concerned committee members, the revision application lacked the foundation necessary for its maintainability. The revisional authority could not have examined the allegations unless the persons against whom the allegations were raised were before it. This defect goes to the root. It is not a mere irregularity. It strikes at the very jurisdiction of the

revisional authority to adjudicate upon the matter.

8. The same defect continues in the writ petition. Even before this Court, the petitioner has not joined those committee members whose disqualification he seeks. A writ petition cannot be used to overcome a basic procedural lapse committed before the revisional authority. When the relief sought will directly affect identified individuals, those individuals must be made parties. Their absence renders the petition incomplete and incapable of adjudication.

9. In these circumstances, the Court finds no reason to entertain the present writ petition. It suffers from a foundational defect which cannot be cured at this stage. The petition must therefore fail.

10. The writ petition, therefore, stands dismissed. No costs.

(AMIT BORKAR, J.)