

AGK

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

WRIT PETITION NO.10587 OF 2025

1. **Kailash Maheshwari**, Age about 68 years,
Adult Indian Inhabitant of Mumbai,
residing at Flat No.L8-18, Jal Ratan Deep
CHS Ltd., Bangur Nagar, Link Road,
Goregaon (West), Mumbai 400 104
2. **Sadashiv Gawade**, Age about 79 years,
Adult Indian Inhabitant of Mumbai,
residing at Flat No.L8-07, Jal Ratan Deep
CHS Ltd., Bangur Nagar, Link Road,
Goregaon (West), Mumbai 400 104
3. **Kishore Karkera**, Age about 54 years,
Adult Indian Inhabitant of Mumbai,
residing at Flat No.L10-07, Jal Ratan Deep
CHS Ltd.,Bangur Nagar, Link Road,
Goregaon (West), Mumbai 400 104
4. **Deepak Raj Bhandari**, Age about 50 years
Adult Indian Inhabitant of Mumbai,
residing at Flat No.L8-13, Jal Ratan Deep
CHS Ltd., Bangur Nagar, Link Road,
Goregaon (West), Mumbai 400 104
5. **Sanjay G. Pal**, Age about 52 years,
Adult Indian Inhabitant of Mumbai,
residing at Flat No.L10-06, Jal Ratan Deep
CHS Ltd., Bangur Nagar, Link Road,
Goregaon (West), Mumbai 400 104

... Petitioners

V/s.

Digitally
signed by
ATUL
GANESH
KULKARNI
Date:
2025.09.25
11:56:18
+0530

1. **State of Maharashtra,**
through the Government Pleader's
Office, PWD Building, High Court,
Bombay
2. **The Dy. Registrar, C.S., P-Ward,**
303-A, BMC Building, 3rd Floor,
90 Fit Road, Thakur Complex,
Kandivali (East), Mumbai 400 101
3. **The Divisional Joint Registrar,**
Cooperative Societies, Mumbai Division,
6th Floor, Malhotra House, Opposite
G.P.O., Fort, Mumbai 400 001.
4. **Sunil Joshi,** Age about _ years,
Adult Indian Inhabitant of Mumbai,
r/at Flat No.L9-01, Jal Ratan Deep
CHS Ltd., Bangur Nagar, Link Road,
Goregaon (West), Mumbai 400 104
5. **Ramniwas Agrawal,** Aged about __ years,
R/at Flat No.L9-05, Jal Ratan Deep
CHS Ltd., Bangur Nagar, Link Road,
Goregaon (West), Mumbai 400 104

... Respondents

Mr. Ankit Lohia with Mr. Nikhil Jayakar, and Ms. Smita Sawant i/by Ms. Ranjana Parab for the petitioners.

Mr. Yuvraj D. Patil, AGP for the respondents-State.

Mr. N.N. Bhadrashete with Ms. Pratibha Mehta i/by Ms. Pratibha Mehta for respondent Nos. 4 and 5.

CORAM : **AMIT BORKAR, J.**

RESERVED ON **SEPTEMBER 20, 2025**

PRONOUNCED ON : **SEPTEMBER 25, 2025**

JUDGMENT:

1. By this writ petition filed under Article 227 of the Constitution of India, the petitioners, who are Managing Committee members of a housing society, are challenging their disqualification under Section 75(5) of the Maharashtra Cooperative Societies Act, 1960 (“MCS Act” or “the said Act” for short). The disqualification has been imposed for alleged non-compliance of Sections 75(2) and 75(4) of the MCS Act.
2. Respondent Nos. 4 and 5 filed a complaint alleging that the petitioners failed to comply with sub-sections (2) and (4) of Section 75. On this complaint, respondent No.2 issued a show-cause notice dated 9 January 2025 calling upon the petitioners to explain why action under Section 75(5) should not be taken for failure to comply with sub-sections (2), (3), and (4) in respect of the Annual General Meetings for the years 2021-2022, 2022-2023, and 2023-2024.
3. The petitioners filed their reply denying the allegations. They contended that the Managing Committee had duly complied with all provisions of Section 75 of the said Act.
4. By order dated 29 April 2025, respondent No.2 disqualified the petitioners for a period of five years from continuing as Managing Committee members or being re-elected. The finding was that the petitioners failed to comply with clauses (iii), (vii), and (viii) of Section 75(2) and also with Section 75(4).
5. The petitioners challenged this order by filing Revision No. 240 of 2025. By order dated 14 July 2025, respondent No.3

dismissed the revision holding that the society had not placed before the general body its annual report of activities, audited profit and loss account, plan for disposal of surplus, rectification report of the earlier Committee, and annual budget for the next year. On this reasoning, the revisional authority concluded that the Managing Committee had failed to discharge its duties under the Act, Rules, and Bye-Laws. The petitioners have, therefore, approached this Court in the present writ petition.

6. Mr. Lohia, learned advocate for the petitioners, submitted that there was substantial compliance with Section 75. He argued that the absence of a specific plan for disposal of surplus and of an annual budget for the next year cannot by themselves attract such a harsh punishment, particularly when all members were aware of the society's financial condition. He contended that it was the duty of the Registrar to determine precisely "whose duty it was to comply with Section 75(2) and 75(4)." He pointed out that except two complainants, the remaining 95 members supported the Managing Committee and no prejudice was caused to them. He also submitted that the rectification reports for the relevant years had already been submitted to the Registrar within the prescribed period. On these grounds, he prayed that the impugned orders be quashed and set aside.

7. In reply, Mr. Bhadrashete, learned advocate for respondent Nos.4 and 5, submitted that the petitioners failed to prove compliance with Section 75(2)(ii), (iii), (vii), and (viii), and were rightly disqualified. He submitted that no explanation was given before the Registrar for such non-compliance and that the

rectification report of earlier audits was not placed before the Annual General Meeting.

8. Drawing attention to Section 75(2), he argued that the duty to comply rests on the entire Committee. According to him, Section 75(2) read with Section 75(5) makes the provisions mandatory, and failure to comply with any of them invites action against the whole Committee. He argued that the expression “whose duty it was” must be understood as applying to the entire Managing Committee. Similarly, the expression “who without any reasonable excuse failed to comply” must also be interpreted to mean the Committee as a whole. He submitted that even partial compliance is not enough; failure to comply with some items makes the entire Committee liable. On this basis, he submitted that the orders passed by the authorities below do not require interference.

9. Mr. Patil, learned AGP, supported the impugned orders. He argued that the Registrar rightly exercised his powers under Section 75(5) to disqualify the entire Managing Committee for non-compliance with Sections 75(2) and 75(4). He therefore submitted that the writ petition deserves to be dismissed.

10. For deciding the present case, and for appreciating the submissions made on behalf of the parties, it becomes necessary to examine the overall scheme of Section 75 of the Maharashtra Cooperative Societies Act, 1960.

Overall scheme of Section 75:

11. The section, as amended, shows the legislature’s clear choice.

It makes the Annual General Body Meeting a strong tool of democratic control and transparency in cooperative societies. The provisions require timely audit and meeting. They require comprehensive disclosures and an independent audit. They impose penalties for default. The aim is to keep members in command of their society's affairs. The law prevents committees from misusing their position by hiding information or delaying accountability.

12. A careful reading of Section 75 shows that the legislature strengthened the law step by step. The AGM is now the principal instrument of accountability. Before 2013 the law was narrow. A society had to hold its AGM within three months of the date fixed for making up accounts. The Registrar could grant another three months. The disclosures then required were limited. They mainly concerned loans to committee members and the balance sheet and profit and loss account. The penalties were small. Disqualification could be for up to three years. The monetary fine was only one hundred rupees.

13. Over time, it became clear that these rules were not enough. Many committees used the gaps in the law. They delayed or avoided the AGM. They kept important information from members. They kept appointing auditors who were dependent on them. Because penalties were small, committees did not take them seriously. Members who had placed money and property with the society lost faith in its management.

14. The Maharashtra Act No. 16 of 2013 changed the law. The amendment gave a new time frame. Every society must now get

accounts audited within four months after the end of the financial year. It must hold the Annual General Body Meeting within six months. This makes sure members see audited figures, not incomplete accounts. The change links financial discipline with democratic oversight.

15. The amendment also widened the list of disclosures. The committee can no longer place only the balance sheet and profit and loss account. It must place ten specific items. These include activity reports, plans for disposal of surplus, election declarations, audit reports, rectification of audit objections, and the budget for next year. This gives members full information about past work and future plans. It closes loopholes that earlier let committees hide inconvenient facts.

16. Another important change is sub-section (2A). It requires appointment of auditors only from the panel approved by the State Government. The society must file the auditor's name and written consent with the Registrar. An auditor cannot serve for more than three continuous years. This severs the unhealthy link between committees and pliable auditors. It makes audit professional, independent, and reliable.

17. The amendment tightened the adoption process. Members must now adopt the audited balance sheet and profit and loss account. They must also adopt the audit report under Section 81 and the rectification report of earlier audits. Adoption is not a formality. It is the general body's approval. Adoption makes the committee directly answerable to the members.

18. The amendment made penalties stronger. The disqualification period rose from three years to five years. The maximum monetary penalty increased from one hundred rupees to five thousand rupees. With these changes the legislature declared that failure to hold the AGM or to place required information is a serious breach of cooperative democracy.

19. After the 2013 amendment, Section 75 ceased to be a mere procedural rule. It became a full framework of financial and democratic accountability. The legislature intended strict application of these provisions. Grave defaults cannot be excused as mere technical lapses. The Registrar must examine the nature of any default. He must distinguish between curable irregularities that can be fixed without disturbing the elected committee, and serious breaches which destroy accountability and justify disqualification or appointment of an Administrator.

20. The application of Section 75 cannot be rigid or one-size-fits-all. The decisive factor is the nature of the society's business. A housing society does not operate like a multipurpose credit society. Both differ from a milk or producer society. Therefore, the importance of each compliance under Section 75, whether it concerns calling the AGM under sub-section (1), disclosures at the AGM under sub-section (2), appointment of auditor under sub-section (2A), the committee's report under sub-section (3), adoption of accounts under sub-section (4), or consequences of default under sub-section (5), must be judged in its proper context.

Sub-section (1): Duty to hold Annual General Meeting within prescribed time:

21. Every society must get its accounts audited within four months after the close of the financial year and must call its Annual General Body Meeting (AGM) within six months after that. The 2013 amendment put this strict timetable in place to tighten financial discipline and to ensure members get timely and reliable information about the society. Earlier, committees often delayed the AGM on various pretexts and kept members uninformed for long periods. The legislature removed that room for delay and linked the AGM to audited accounts so meetings are not held on incomplete or unaudited figures.

22. The provision allows the Registrar to step in when the committee defaults. If the AGM is not called in time, the Registrar or an authorised officer may convene the meeting. That meeting is deemed to be the valid AGM of the society. This deeming rule protects members' rights when the committee is negligent or avoids accountability. It also prevents the committee from later challenging the meeting's validity on the ground that it was not called by them.

23. The statute also allows the Registrar to order that expenses of such a meeting be paid from the society's funds or recovered from the committee members responsible for the default. This serves two purposes. First, members do not suffer because of their representatives' inaction; the meeting is held at the society's cost or at the cost of defaulting officers. Second, it deters willful

neglect, because committee members may have to bear personal costs for their failure.

24. The object of these provisions is clear. The AGM is not a mere formality. It is the central forum of accountability where every member has the right to know how the society worked during the year, how funds were used, and what policies are proposed for the future. By making the AGM mandatory within a fixed period and by allowing the Registrar to intervene, the legislature protects the democratic character of cooperative societies and prevents misuse of power by elected committees.

Sub-section (2): Disclosures at the AGM:

25. At every AGM, the committee must place a set of mandatory disclosures before the members. These include details of loans to committee members or their close relatives, repayment position, annual report of activities, plan for disposal of surplus, list of amendments to by-laws, declaration about elections, audit report, rectification report of earlier audit, budget for the next year, and any information called for by the Registrar. The 2013 amendment introduced this wide range of disclosures to prevent secrecy and to keep members fully informed about all aspects of the society's working. The object is that members can scrutinise both financial affairs and the democratic functioning and policy decisions of the committee. Without these disclosures, the AGM would become a mere formality and lose its purpose.

Core compliances under Section 75(2):

26. Certain disclosures go to the root of financial transparency

and democratic accountability. These include placing the audited accounts and audit report (clause vi); placing the rectification report of earlier audit (clause vii); declaration regarding elections of the committee (clause v); and statement of loans to committee members or their relatives (clause i). These are the backbone of cooperative governance. If these are missing, members lose their statutory right to scrutinise accounts, to check misuse of office, and to know when the committee will face fresh elections.

Ancillary compliances:

27. Other disclosures support the main requirements. These include annual report of activities (clause ii); plan for disposal of surplus (clause iii); list of amendments of by-laws (clause iv); annual budget for the next year (clause viii); any information required by the Registrar (clause ix); and any other business as per by-laws with due notice (clause x). Omission of these may be irregular but may not by itself cause a collapse of governance. For example, a housing society that does not generate commercial surplus may not have a plan for disposal of surplus. In that case, failure to place that item is not as serious as withholding audited accounts.

Sub-section (2A): Appointment of auditor from approved panel:

28. This provision makes it mandatory for every society to appoint an auditor or an auditing firm from the panel approved by the State Government. The appointment must be made in the AGM, and the society must file the auditor's name and consent with the Registrar within thirty days. The same auditor cannot be

reappointed for more than three consecutive years. This change was introduced to stop the practice of appointing auditors who were dependent on or pliable to the committee. By insisting on auditors from an approved panel with fixed qualifications, and by limiting tenure, the law secures professional independence and credibility in auditing. The object is to ensure members get a truthful and unbiased audit of their society's accounts. The object of this sub-section is to stop the old practice where committees repeatedly appointed friendly auditors who overlooked irregularities. By requiring auditors to come from a Government-approved panel, the law ensures professional qualifications and accountability. By requiring the appointment in the AGM, the process becomes transparent and open to all members. By requiring filing with the Registrar, the State gains a supervisory check. By limiting continuous appointment beyond three years, the law prevents unhealthy familiarity between auditor and committee. The overall purpose is to ensure members receive a truthful, professional, and unbiased audit of their society's accounts.

Core Compliance under Section 75(2A):

29. The heart of this provision is that every society must appoint an auditor or auditing firm only from the State Government approved panel. This is not optional. The appointment must be made in the AGM. The society must file the auditor's name and written consent with the Registrar within thirty days. These are core requirements because they guarantee that the audit is done by a qualified and independent professional. Without these steps,

the purpose of the amendment fails. If the society appoints someone outside the approved panel, or does not file the auditor's name and consent with the Registrar, it is a grave default. Members then lose the safeguard of an independent and reliable audit.

Ancillary Compliance under Section 75(2A):

30. The second element is that the same auditor cannot be appointed for more than three consecutive years. This is also mandatory but plays a different role. It does not affect whether an audit takes place. It prevents excessive dependence on one auditor and reduces the risk of collusion between auditor and committee. If a society continues with the same auditor for a fourth year by oversight, it is a breach. But unlike appointing an auditor outside the approved panel, this may not immediately affect the validity of the accounts for that year if the auditor is otherwise qualified and from the panel. It is still a lapse, but it may be treated as ancillary because it concerns continuity and independence rather than the immediate act of auditing. The Registrar may correct this through directions or penalty, while still recognising the audit report unless collusion or bad faith is shown.

Sub-section (3): Committee's report to accompany accounts:

31. Every balance sheet laid before the AGM must be accompanied by a report of the committee. This report must explain the state of the society's affairs, transfers to reserves, and any recommendation for dividend, bonus, or honoraria. It must also mention any significant charges or events affecting the

business during the year. The report must be signed by the Chairman or an authorised committee member, thereby fixing responsibility for its accuracy. The object is to ensure that financial figures are not presented in isolation but are explained in a narrative report so members can understand the condition and direction of the society in simple terms. This requirement forces the committee to put its reasoning on record and is a key measure of accountability.

32. This sub-section requires that a written report of the committee must always accompany the balance sheet placed before the AGM. The report must contain: (a) the state of the society's affairs; (b) amounts proposed to be carried to reserve; (c) amounts recommended to be paid as dividend, bonus, or honoraria; and (d) any important changes in the business during the year. The report must be signed by the Chairman or another authorised member. This fixes responsibility and tells members who is answerable for the contents.

Core Compliance under Sub-section (3):

33. Core compliance means disclosures that go to the root of accountability. In this sub-section the core requirements are: (i) a clear statement of the state of the society's affairs; (ii) disclosure of amounts carried to reserves; and (iii) disclosure of recommended payments like dividend, bonus, or honoraria. These items directly affect members' entitlements and the society's allocation of benefits. If these disclosures are missing, the committee withholds information essential for members to exercise control. Such

omissions are grave defaults.

Ancillary Compliance under Sub-section (3):

34. Ancillary compliance covers requirements which support the main disclosures. In this sub-section these include: (i) reporting of significant changes in the nature of business during the year; and (ii) signature of the Chairman or authorised committee member on the report. Failure here may not immediately affect members' rights to dividends or reserves, but it weakens transparency and responsibility. Such lapses can be treated as irregularities and corrected by directions. They do not justify disqualification or appointment of an Administrator unless deliberate or repeated.

Sub-section (4): Adoption of accounts and other business at AGM:

35. This sub-section requires that the audited balance sheet, audited profit and loss account, audit report, rectification report, and the committee's report must be placed before the members for adoption in the AGM. Adoption by the members is not a mere ritual. It is democratic approval of the committee's functioning and financial management. Once adopted, these reports stand as the official record of the society's affairs. The AGM may also transact other business permitted by the by-laws, provided due notice is given. This provision ensures that the AGM remains the highest decision-making body of the society, combining statutory obligations with matters of self-governance.

Core Compliance under Sub-section (4):

36. Certain items are fundamental and go to the root of

transparency and financial control. These are audited balance sheet and audited profit and loss account, which show the society's financial position and results; the audit report under Section 81, an independent professional assessment; and the rectification report of earlier audit, which shows whether past irregularities have been corrected. These three disclosures, audited accounts, audit report, and rectification report, are the core compliances. If they are missing, it is a grave default because members lose their right to scrutinise the finances and hold the committee to account.

Ancillary Compliance under Sub-section (4):

37. Other requirements, though mandatory, support the core disclosures. The committee's report explains financial data and highlights policy recommendations. While important, omission of the report may be less grave than omission of audited accounts, since the numbers and audit report still show the financial position. Other business under by-laws with due notice allows members to raise governance issues. Failure to transact some by-law business may not be as serious as suppressing audited accounts or the rectification report. These are ancillary compliances. Their omission is irregular and weakens transparency but does not automatically prevent members from scrutinising finances.

Sub-section (5): Consequences of default:

38. Section 75(5) enforces the entire scheme under Section 75. This provision shows the legislature's view that failure to meet duties of transparency and accountability is a serious lapse and not

a technical mistake. The object is deterrence. The rule prevents committees from hiding information or avoiding responsibility and protects members' democratic rights. The provision ensures that Section 75 is not left on paper. It creates personal consequences for committee members and officers who neglect their duties. At the same time, the Registrar's response must match the seriousness of the lapse. It authorises the Registrar to act when the committee neglects its statutory duties. The provision states that if a society defaults in calling the Annual General Body Meeting within the time fixed by sub-section (1), or fails to comply with sub-sections (2), (2A), (3) or (4), the Registrar may disqualify the responsible committee members for a period not exceeding five years. If the person in default is an officer or servant of the society, the Registrar may impose a monetary penalty up to five thousand rupees. The Registrar must always give a reasonable opportunity of hearing before making such an order.

39. The words in sub-section (5) say that “the Registrar may by order declare any officer or member of the committee whose duty it was to call such a meeting or comply...” This phrase has important consequences. It requires careful examination of three things:

(i) Who has the duty:

40. The law does not punish every committee member or every officer of the society. Responsibility is limited to those who had the legal duty to call the Annual General Body Meeting or to comply with sub-sections (2), (2A), (3), or (4). For example: The

Secretary usually prepares and issues notices of meetings. The Chairman must preside and ensure proper conduct of the meeting. The Treasurer and other office bearers must prepare and present accounts. Ordinary committee members, who had no role in compliance, cannot be automatically disqualified. Therefore, the Registrar must identify clearly which officer or member failed in his duty. Disqualifying the entire committee without inquiry into individual responsibility would be unjustified.

(ii) Nature of the duty:

41. The duties under Section 75 are statutory; they are not optional. Once a person accepts the office of committee member or officer, he is bound by law to perform these duties. Neglect amounts to a breach of statutory trust. The words “*whose duty it was*” make it clear that liability arises only when the duty is fixed by law, bye-laws, or by virtue of the office held. For example: If audited accounts are not placed, the Treasurer and Secretary are responsible, not members who had no role in accounts. If the AGM is not called, the Chairman and Secretary, who issue notices and conduct the meeting, are liable. This ensures fairness and prevents punishing those who had no control over the default.

(iii) Registrar’s discretion:

42. The section uses the words “*the Registrar may by order declare...*”. This means the Registrar has discretion. He is not bound to disqualify in every case. He must exercise judgment depending on: How serious the lapse is. (i) Whether the lapse was deliberate or due to genuine difficulty. (ii) Whether the officer

tried to remedy the omission or ignored warnings. (iii) Whether the lapse deprived members of their right to accountability. For example: If the AGM was delayed only a few days due to natural calamity, strict action may not be justified. If accounts were suppressed for two years despite reminders, disqualification would be proper. Thus, discretion must be exercised reasonably, supported by evidence of responsibility and nature of the default.

43. The phrase “the Registrar may by order declare any officer or member of the committee whose duty it was to call such a meeting or comply...” should be understood to mean: Only those officers or members who had a defined statutory or functional duty can be held responsible; Responsibility must be fixed on the basis of credible evidence, not on assumptions; The Registrar’s discretion must be exercised judicially, distinguishing between grave defaults and technical lapses ; Disqualification is a serious step, meant to secure accountability, not to penalise innocent or non-responsible members.

44. Application of Section 75(5) in respect of Housing Society

(i) Grave default: If the Annual General Body Meeting is not called within time, the Secretary (who prepares the notice) and the Chairman (who approves and conducts the meeting) may be held responsible. Ordinary members of the committee, who had no role in convening the meeting, should not be disqualified.

(ii) Audit-related default: If audited accounts are not presented, the Treasurer and Secretary who maintain the

accounts, along with the Chairman who approves them, may be held responsible.

(iii) Technical default: If the committee forgets to place the surplus disposal plan when no surplus exists, it is a minor lapse. Even if the Secretary failed to include it, disqualification is not justified. Directions will suffice.

45. Application of Section 75(5) in respect of Multipurpose or Credit Society

(i) Core financial lapse: If audited accounts or budget are not placed, the Treasurer and Chairman must bear responsibility. These are grave omissions because members' deposits and loans are directly involved.

(ii) Election declaration suppressed: If no declaration about committee elections is made, the whole committee, not just one officer, may be liable, since elections are a collective responsibility.

(iii) Partial compliance: Suppose accounts are placed but the rectification report of earlier audit is missing. The Treasurer and Secretary may be directed to explain and correct. Disqualification may not be required unless this lapse is repeated in successive years.

46. Application of Section 75(5) in respect of Producer or Service Society (milk, sugar, labour contract, etc.)

(i) Activity report missing: If the annual activity report is not presented, members cannot judge the society's

performance. The Managing Director (if any), Secretary, and Chairman may be responsible. This omission may amount to a grave default, since it directly affects the livelihood of members.

(ii) Budget omitted: If no budget is placed, the Treasurer and Secretary must answer, since this affects members' share of income and expenditure for the next year.

(iii) By-law amendments not listed when none were made: If no amendment exists, failure to show it is technical. No officer should be disqualified.

47. Application of Section 75(5) in respect of Small Non-Profit or Cultural Society

(i) Core duty: If the income and expenditure account is not presented, or if elections are not declared, it is a grave lapse. Here the Secretary and Treasurer are directly responsible.

(ii) Technical lapse: If the surplus disposal plan is not placed, when no surplus exists, the omission is not serious. Directions would be enough.

(iii) Part compliance: If the society places accounts but omits the activity report, the omission is minor. Members still have the main information.

48. From the above one principle is clear. The gravity of non-compliance depends not only on which item is omitted but also on the nature of the society's business. A lapse that is minor for a

housing society may be grave for a credit society. A default that is technical for a cultural society may be serious for a producer society. Therefore, while applying Section 75 the Registrar must (i) identify whether the default relates to a core requirement or an ancillary requirement; (ii) judge the importance of the requirement in the context of the society's business and character; and (iii) consider whether the lapse has substantially deprived members of their right to transparency and democratic control.

49. The guiding rule stays the same. Where defaults are grave, strict consequences must follow under sub-section (5). These include disqualification of committee members and, where necessary, appointment of an Administrator under related provisions. Where defaults are technical or contextual, they should be corrected by directions or penalties. The elected committee should not be disturbed for minor lapses. The question whether a lapse is grave or technical cannot be decided in the abstract. It must be judged by reference to the society's nature, its business, and the role of the omitted compliance in cooperative governance.

50. The effect of partial compliance must be judged with care. The test is not a headcount of items complied with. The law does not say that if seven out of ten items are met the committee is safe, or that if three are missing an Administrator must automatically be appointed. What matters is the nature of the non-compliance and its impact on members' rights. The correct test is the quality, gravity, and effect of the lapse on cooperative governance.

51. When deciding whether to disqualify, impose a penalty, or appoint an Administrator under Section 75(5), the Registrar must apply these tests:

- (a) Does it concern core statutory duties ? Or is it ancillary?
- (b) Was it wilful or mala fide, or due to oversight or genuine difficulty?
- (c) Has it deprived members of transparency, scrutiny, or democratic control?
- (d) Is the lapse isolated or a repeated pattern over years?
- (e) Can penalty or directions ensure compliance, or is the society's governance already paralysed?
- (f) Who has the duty, nature of the duty and exercise of discretion by Registrar?

52. The main issue in this petition is whether the disqualification of the entire Managing Committee under Section 75(5) of the Maharashtra Cooperative Societies Act, 1960 was justified.

53. In the present case, the Registrar has disqualified the petitioners on the ground that they failed to comply with clauses (iii), (vii), and (viii) of Section 75(2) as well as with Section 75(4) of the Maharashtra Cooperative Societies Act, 1960. However, while passing the impugned order, the Registrar has not applied the correct legal tests.

54. First, the law requires that every alleged default must be examined in the light of whether it is a core default or an ancillary default. In the present case, the Registrar has treated all omissions at par without distinguishing between grave and technical lapses.

55. Second, Section 75(5) clearly uses the expression “whose duty it was.” This means that liability cannot be fastened mechanically upon all members of the committee. The Registrar was required to identify which office bearers had the statutory or functional duty to prepare and place the relevant documents, such as the Secretary, Treasurer, or Chairman. Ordinary members, who had no direct role in preparing or placing audited accounts, rectification reports, or budgets, cannot be disqualified without evidence of complicity. The impugned order fails to record such findings and has applied disqualification indiscriminately to the entire committee.

56. Therefore, the order suffers from a failure to apply the law correctly. The defaults alleged against the petitioners must be re-examined by the Registrar in the light of the tests laid down in this judgment.

57. In these circumstances, the matter deserves to be remitted back to Respondent No. 2 for fresh consideration. The Registrar must reconsider the case afresh, apply the tests indicated above, and then decide whether disqualification is justified, and if so, against whom, on the basis of credible evidence of duty and default.

58. The order dated 14 July 2025 passed by Respondent No.3 in Revision Application No.240 of 2025, and the order dated 29 April 2025 passed by Respondent No.2 under Section 75(5) of the Maharashtra Cooperative Societies Act, 1960, are hereby quashed and set aside.

59. The matter is remitted to respondent No.2 for fresh decision strictly in accordance with this reasoning. The Registrar will complete the re-examination after hearing within a reasonable period.

60. Accordingly, the writ petition stands disposed of.

(AMIT BORKAR, J.)