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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10843 OF 2025

Bhadresh Kamdar ... Petitioner

V/s.

Deputy Registrar, Coop. Societies,
Mumbai Western Suburbs & Ors. ... Respondents

Mr. Surel S. Shah, Senior Advocate with Mr. Ketan
Joshi for the petitioner.

Ms. Aloka A. Nadkarni, AGP for respondent Nos.1 and
5-State.

Mr. Priyank Daga for respondent No.4.

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CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 24, 2025

P.C.:

1. The writ petition questions the order passed under Section 75(5) of the Maharashtra Cooperative Societies Act. The authority proceeded on the footing that the petitioner, who was the Secretary of the society, committed a default by placing the rectified audit report before the general body only for the purpose of noting. I find it necessary to clarify that Section 75(5) empowers the authority to impose the serious consequence of disqualification only when the material on record clearly shows a failure of duty of a grave nature. The provision must be applied with caution. The authority must examine whether the act complained of strikes at the transparency of the society's financial

management. A mechanical application of the provision defeats its object.

2. The record shows that the rectified audit report was in fact placed before the annual general body meeting. This fact is not disputed. Once the report was placed before the general body, the purpose of its placement stood fulfilled. The legal position is clarified by the judgment of this Court in *Kailash Maheshwari and Others versus State of Maharashtra, Writ Petition No.10857 of 2025, decided on 25 September 2025*. The Court held that the mere absence of deliberation upon the rectified report does not attract the penal consequence of disqualification. The Court emphasised that the role of the managing committee is to place the report before the general body. Any further action lies in the collective domain of the general body. In view of this position, the foundation of the impugned order becomes weak.

3. I have examined the conduct attributed to the petitioner in the light of paragraph 51(b) of the judgment in *Kailash Maheshwari*. The requirement is that the default must be willful or tainted by mala fides. The facts do not support such a conclusion. The petitioner followed the statutory mandate. The placing of the rectified report is admitted. There is no material to suggest that the petitioner intended to suppress information or mislead the general body. When the basic ingredients of willfulness or mala fides are absent, the order of disqualification cannot stand. The authority acted without proper appreciation of the legal standard.

4. The case does not warrant continuation of the impugned order. The writ petition is therefore allowed. Prayer clause (a) stands granted. There shall be no order as to costs.

(AMIT BORKAR, J.)