

Arun Sankpal

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10857 OF 2025

Pankaj Seth & Ors ..Petitioners
Versus
The Deputy Registrar, Cooperative Societies & ...Respondents
Ors

WITH
WRIT PETITION NO. 10855 OF 2025

Pankaj Seth & Ors ..Petitioners
Versus
The Deputy Registrar, Cooperative Societies & ...Respondents
Ors

Mr. Prashant P. Kulkarni, with Rachna Mamnani and Ritika Rajeev ,
for the Petitioners in both Petitions.
Mr. S.D. Rayrikar, AGP, for Respected Nos. 1, 2 and 6.
Mr. Alok D. Mishra, for Respondent No.4.

CORAM: N. J. JAMADAR, J.

DATED : 11th AUGUST 2025

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RAMCHANDRA
SANKPAL

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P.C.:

1. These Petitions are directed against a common order dated 1st July 2025 passed by the Minister, Cooperation, Mantralya, Mumbai, in Revision Application No. 187 of 2024 and 188 of 2024, whereby the Minister was persuaded to allow those Revision Applications preferred by the Respondent No.4 and set aside the order dated 1st February 2024

passed by the Divisional Joint Registrar in Appeal No. 397 of 2023 and 403 of 2023, preferred by the Petitioners, thereby setting aside the orders dated 13th September 2023 passed by the District Deputy Registrar Cooperative Societies under Section 78(A)(1)(b) of the Maharashtra Cooperative Housing Societies Act 1960 (“the Act of 1960”) removing the Petitioners from the committee, and a further order dated 21st September 2023 appointing the Authorised Officer to manage the affairs of the Respondent No.3-society under Section 77(A) (1)(b-1), and affirm the aforesaid orders dated 13th September 2023 and 21st September 2023 passed by the District Deputy Registrar.

2. Initially the District Deputy Registrar on the basis of the complaint lodged by the Respondent No.4, ordered inspection of the working of the Society under Section 89A of the Act 1960. On the basis of the report, the acts and omissions highlighted therein, the response of the society and the Petitioners thereto, the Deputy Registrar came to the conclusion that the Petitioners had managed the affairs of the Society in breach of mandatory statutory requirements, by-laws and Government circulars. Thus, the Petitioners were removed by invoking the power under Section 78A(1) of the Act of 1960. As the number of members of the managing committee, upon removal of the Petitioners, fell to six and a stalemate occurred as the said strength of members of the Committee would not constitute the quorum under by-law 114, by a

subsequent order dated 21st September 2023, authorised officer came to be appointed.

3. Mr. Kulkarni, the learned Counsel for the Petitioner submitted the District Deputy Registrar has not considered the explanation given by the society on each of the eight items of the alleged deficiencies. Thus, the Appellate Authority was within its right in setting aside the orders passed by District Deputy Registrar, without adhering to the mandatory provisions of the Act 1960 and the principles of natural justice. The Minister thus could not have interfered with the said order.

4. Mr. Alok Mishra, the learned Counsel for the Respondent No.4 resisted the submission on behalf of the Petitioner.

5. The Respondent No.4 tendered an Affidavit in Reply to oppose the admission of the Petition and grant of interim relief.

6. It was submitted that the lapses on the part of the Petitioners were such that they could not have been rectified by the Resolutions passed in the General Body Meetings of the society. Therefore, the Minister, Cooperation was justified in setting aside the order passed by the Appellate Authority.

7. The legality, propriety and correctness of the order, removing the Petitioners from the committee, impugned in Writ Petition No. 10855 of 2025, is required to be appreciated on the touchstone, whether the

subsequent ratification of the decision of the managing committee by the General Body inures to the benefit of the Petitioners.

8. Since the order under Section 78(A)(1) of the Act of 1960 has consequences of debarring the members of the society removed thereunder from being re-elected and re-co-opted or re-nominated as a member of any committee till the expiry of period of next one term of the Committee from the date on which he has been so removed, the order of removal has consequences on the Petitioners beyond the current term of the committee of the Society.

9. In Writ Petition No. 10857 of 2025, *prima facie* the mandate contained in the first proviso to the Section 77A to publish a notice on the notice board at the head office of the society inviting objections and suggestions, does not seem to have complied with. The said order appears to have been passed by invoking the power under the second proviso to Section 77A. However, the impugned order, *prima facie* does not indicate that adequate reasons were recorded to arrive at such satisfaction.

10. Since the order under Section 77A(1) (b-1) has purportedly been passed on account of the stalemate in the Committee due to removal of the Petitioners on the premise that the number of members has fallen below the prescribed quorum, a further question as to whether in such a situation the compliance of the first proviso is warranted and whether

the case would be covered by the second proviso, without recording reasons to arrive at such satisfaction, also crops up for consideration.

11. In view of the above, issue notice to the Respondents.

12. Mr. Rayrikar, the learned AGP, waives notice to Respondent Nos. 1, 2 and 6.

13. Mr. Mishra, the learned Counsel, waives notice to Respondent No.4.

14. However, since there is an allegation of financial irregularities and the explanation thereto, *prima facie*, does not carry conviction, the Petitioners do not deserve any ad-interim relief.

15. The Respondent No.4 is at liberty to file an Additional Affidavit in Reply within four weeks. The Respondent Nos. 1, 2 and 6 may also file Additional Affidavit in Reply within a period of four weeks.

16. Parties are at liberty to file Additional Compilation of documents.

17. Stand over to 17th September 2025.

18. The parties are put to notice that an endeavour would be made to hear and decide the Petitions finally at the stage of admission.

[N. J. JAMADAR, J.]