

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10855 OF 2025
WITH
WRIT PETITION NO.10857 OF 2025

Pankaj Seth ... Petitioner
V/s.
The Dy. Registrar, Cooperative
Societies & Ors. ... Respondents

Mr. Prashant P. Kulkarni with Ms. Rachna Mamnani for
the petitioner.

Ms. Aloka A. Nadkarni, AGP for respondent Nos.1, 2,
and 6-State in WP/10855/2025.

Ms. Savina Crasto, AGP for respondent Nos.1, 2, and 6-
State in WP/10857/2025.

Mr. Alok D. Mishra for respondent No.4.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 3, 2025

PC.:

1. **Rule.** Rule is made returnable forthwith.
2. The challenge in these writ petitions is at the instance of Managing Committee member of a housing society against whom the Registrar in exercise of power under Section 77A of the Maharashtra Cooperative Societies Act, 1960 and passed an order of appointment of authorized officer.
3. On perusal of the record, it appears that the Registrar on 4 May 2023 issued a notice under Section 78A(1)(b) of the MCS Act.

The notice indicates eight grounds for removal of the petitioner. Ground No.7 is in relation to incurring expenses of Rs.35 lakh. The petitioner filed reply pointing out that the decision of the Managing Committee to incur expenses of Rs.35 lakh was placed before the General Body on 4 September 2022. The decision by the Registrar under Section 78A was taken on 13 September 2022. The Registrar, thereafter, passed an order under Section 77A of the MCS Act appointing authorized officer.

4. Challenging both orders under Sections 78A and 77A, the petitioner filed revisions before Revisional Authority. The Revisional Authority by order dated 1 February 2024 allowed revision mainly on the ground that the decision taken by the Managing Committee to incur expenses of Rs.35 lakh without prior permission of the General Body was ratified by the General Body in presence of the complainant.

5. This decision of Appellate Authority was challenged by respondent No.4 before Revisional Authority. The Revisional Authority by the impugned order dated 1 July 2025 set aside the order passed by Appellate Authority, confirming order of removal of the petitioner under Section 78A and appointment of authorized officer under Section 77A.

6. On perusal of the orders passed by the Authorities under the Act, it is necessary to be noted that for invocation of power under Section 78A(1), it was obligatory for the Registrar to be satisfied about the acts of misfeasance committed by the Managing Committee members or acts of defalcation committed by such

member. On the face of it, ground No.7 incurring expenses of Rs.35 lakh by the Managing Committee without authorization of the General Body appears to be serious enough to invoke powers under Section 78A. However, once such expenses having been ratified by the General Body, said decision to incur expenses of Rs.35 lakh becomes the decision of the General Body.

7. Therefore, the Authorities under the Act were not justified in invoking power under Section 78A(1)(b) of the Act. The Revisional Authority, therefore, could not have set aside well reasoned order passed by the Appellate Authority in exercise of power under Section 152 of the MCS Act.

8. In my opinion, therefore, the order of disqualification of the petitioner under Section 78A(1)(b) of the MCS Act, and the order of appointment of authorized officer under Section 77A cannot be sustained.

9. Accordingly, rule is made absolute in terms of prayer clause (a). No costs.

(AMIT BORKAR, J.)