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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10872 OF 2025

Mustafa Shamoon Mala … Petitioner

V/s.

Deputy Registrar, Coop. Societies,
Mira-Bhayandar, Thane & Ors. … Respondents

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

Mrs. P.J. Gavhane, AGP for respondent No.1-State.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 18, 2025

P.C.:

1. **Rule**. Rule is made returnable forthwith.

2. Notice of the writ petition was duly served upon the contesting respondents. Despite service, none appeared to oppose the petition. The Court has, therefore, examined the matter on the basis of the record available and the submissions advanced on behalf of the petitioner.

3. The writ petition questions an order passed by the Registrar under Section 75(5) of the Maharashtra Cooperative Societies Act, 1960. By that order, the Registrar disqualified the entire managing committee. The stated reason is twofold. First, the agenda of the general body meeting did not specifically include the subject of appointment of the auditor. Second, the minutes of the general body meeting did not expressly record discussion of the rectified audit report. The power under Section 75(5) is drastic in nature. It visits an elected body with civil consequences. Such power can be exercised only when a clear and proven breach of mandatory statutory duty is shown on the record.

4. The record shows that an auditor was in fact appointed. The auditor conducted the audit and submitted the audit report. The defects pointed out were thereafter rectified. The rectified audit report was placed before the annual general body meeting. These facts emerge from the documents produced by the society and are not contradicted by any material on record. Section 75 mandates two essential compliances. Appointment of an auditor. Placement of the audit report before the general body. Both requirements stand satisfied. The statute does not say that failure to expressly mention the item of appointment of auditor in the agenda, by itself, results in automatic disqualification. Nor does it provide that omission to record the rectified report in the minutes, despite its actual placement before the general body, amounts to a fatal breach. The law looks at substance, not form. When compliance is shown in fact, a mere procedural omission cannot be elevated to a ground for disqualifying the entire managing committee. Such an interpretation finds no support in the language of Section 75 or in the evidence on record. The Registrar, therefore, exceeded jurisdiction in invoking Section 75(5).

5. For the reasons stated above, rule is made absolute in terms of prayer clause (a).

(AMIT BORKAR, J.)