

Shabnoor

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

WRIT PETITION NO.11248 OF 2025

WITH

WRIT PETITION NO.11250 OF 2025

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signed by
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1. Salman Khalil Mulla,

Age : 59 years, Indian Inhabitant, Occ.:
Business, residing at Flat No. 44, B Wing,
4th Floor, Almas Co-operative Housing
Society Ltd., Sane Guruji Marg, Sat Rasta,
Mumbai – 400 011.

2. Shahid Zahid Hawa,

Age : 54 years, Indian Inhabitant, Occ.:
Business, residing at Flat No. A-54, Almas
Co-operative Housing Society Ltd., Sane
Guruji Marg, Sat Rasta, Mumbai – 400
011.

3. Sucha Singh Parmar,

Age : 37 years, Indian Inhabitant, Occ.:
Business, residing at Flat No. A-53, Almas
Co-operative Housing Society Ltd., Sane
Guruji Marg, Sat Rasta, Mumbai – 400
011.

... Petitioners

V/s.

1. The Assistant Registrar,

Co-operative Societies, E ward, 5th Floor,
Boruka Charitable Trust, Transport House,
Puna Street, Masjid Bandar (East),
Mumbai – 400 009.

- 2. Kulvindar Singh Gujral,**
Adult, Indian Inhabitant, Occ.: Business,
residing at Flat No. A-51, Al-mas Co-
operative Housing Society Ltd., Sane
Guruji Marg, Sat Rasta, Mumbai – 400
011.
- 3. Al-Mas Co-operative Housing Society Ltd.,**
a society registered under the provisions
of the Maharashtra Co-operative Societies
Act, 1960 and Rules, 1961, having its
registered office at Al-Mas Co-operative
Housing Society Ltd., Sat Rasta, Sane
Guruji Marg, Mumbai – 400 011.
- 4. Shaikh Sameer Mohd. Iqbal,**
Adult, Indian Inhabitant, Occ.: Business,
residing at Flat No. A-21, Almas Co-
operative Housing Society Ltd., Sane
Guruji Marg, Sat Rasta, Mumbai – 400
011.
- 5. Noor Mohd. Yusuf Milwala,**
Adult, Indian Inhabitant, Occ.: Business,
residing at Flat No. A-52 Almas Co-
operative Housing Society Ltd., Sane
Guruji Marg, Sat Rasta, Mumbai – 400
011.
- 6. Mrs. Shahin Sayyed Nassir,**
Adult, Indian Inhabitant, Occ.: Housewife,
residing at Flat No. B-32, Almas Co-
operative Housing Society Ltd., Sane
Guruji Marg, Sat Rasta, Mumbai – 400
011.
- 7. Mrs. Amrita Kaur Bachher,**

Adult, Indian Inhabitant, Occ.: Housewife,
residing at Flat No. A-34, Almas Co-
operative Housing Society Ltd., Sane
Guruji Marg, Sat Rasta, Mumbai – 400
011.

8. Mr. Balasaheb Desai,

Panchgnga Building No.3/404, N. M.
Joshi Marg, Lower Parel (East), Mumbai -
400013

9. Mr. R. M. Sarkhaji,

Flat No. 41, A-wing, 4th Floor, Al-Mas
Cooperative Society Ltd., Sane Guruji
Marg, Sat Rasta, Mumbai – 400 011.

10. Mr. Ganesh B. Suvarna,

Flat No. 43, A-wing, 4th Floor, Al-Mas
Cooperative Society Ltd., Sane Guruji
Marg, Sat Rasta, Mumbai – 400 011.

(Board of Administrators

Respondent Nos. 8 to 10)

... Respondents

Ms. Dhanashree Hublikar a/w Uzair Kazi i/b YMK Legal, for
the Petitioners.

Ms. Savina r. Crasto, AGP for the State – Respondent No. 1
in WP/11248/2025.

Mr. P. V. Nelson Rahan, AGP for the State – Respondent No. 1
in WP/11250/2025.

Mr. Kishor Patil i/b Mr. Vivek B. Rane, for Respondent No.2.

Mr. Amit A. Gharte, for Respondent No.3.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 22, 2025

ORAL JUDGMENT:

1. These petitions are filed by elected members of the managing committee. They call in question the order passed by the competent authority under the Maharashtra Co operative Societies Act, 1960. By the said order, proceedings were initiated under Section 154B 23(3) of the Act. The petitioners were disqualified for a period of five years. The stated reason is alleged non compliance with the direction of the Registrar to furnish certain documents demanded by respondent No.2. The petitioners have also assailed the consequential order passed under Section 77A of the Act, by which an Administrator came to be appointed to the housing society.

2. The record, when examined, shows that on 12 September 2024 the petitioners moved an application seeking specific documents. The demand covered seven items. These included details of repairs and maintenance amounting to Rupees Four Lakh Eleven Thousand Two Hundred Twenty Nine, which formed part of the agenda of the Annual General Meeting held on 15 September 2024. The petitioners also sought documents relating to deemed conveyance, a copy of the structural audit report of the building, details of repairs and maintenance for the year 2022 to 2023, water tanker bills for the year 2024, insurance documents concerning the compound boundaries, and details of expenditure along with the minutes of the Annual General Meeting held on 15 August 2025.

3. On 28 October 2024, the Assistant Registrar passed an order directing the society to furnish documents to respondent No.2 and to submit a compliance report. The order states that the documents be supplied in accordance with the Act, the Rules, and the Bye laws. Beyond this general direction, the order is silent. It does not identify which documents are to be furnished. It does not fix any time limit for compliance. It does not indicate the amount payable by the member towards copying or inspection charges.
4. When the Registrar exercises powers under Section 154B 8, the duty is not merely to issue a direction. The duty is to issue a clear and workable direction. The Registrar is expected to specify three essential particulars. First, the exact documents to be furnished. Second, the time within which compliance must be made. Third, the amount payable by the member towards copying or other charges, after ascertaining the same from the society. Only when these elements are stated does the direction acquire certainty and enforceability.
5. For the future, it is necessary that all Registrars adhere to this discipline while issuing directions under the said provision.
6. The record discloses that on 18 November 2024 the society addressed a communication to the office of the Assistant Registrar stating that all eight documents demanded by respondent No.2 were ready. The endorsement of the Assistant Registrar's office on the said communication records a clear statement made by the Secretary. It was stated that till 12 November 2024 respondent No.2 had neither approached the society to collect the documents

nor deposited the requisite charges. The communication further recorded a specific apprehension. It was stated that respondent No.2 was using the letter dated 12 September 2024 as a device to initiate proceedings for disqualification of the managing committee. This contemporaneous record assumes significance. It reflects readiness on the part of the society and reluctance on the part of the member.

7. The conduct of the society thereafter remains consistent. On 3 February 2025 the Secretary once again called upon respondent No.2 to collect the documents on payment of the prescribed fees. This step shows continued willingness to comply. In response, respondent No.2, by his communication dated 5 February 2025, adopted a rigid stand. He asserted that the documents ought to have been supplied within forty five days. He further stated that since the matter was pending before the Assistant Registrar, he would not collect the documents. This refusal was conscious and deliberate. A member who declines to accept documents when called upon cannot later complain of non supply.

8. Despite this position on record, the Assistant Registrar on 6 February 2025 proceeded to pass an order recording alleged non compliance. The order relies upon a purported statement of the Secretary and straightaway disqualifies the entire managing committee for a period of five years. The order does not examine the earlier communication dated 18 November 2024. It does not consider the call issued on 3 February 2025. It also does not address the refusal dated 5 February 2025. An order imposing such grave consequences without addressing material on record fails the

test of reasoned decision making.

9. The consequence followed with alarming speed. On the very next day, that is on 7 February 2025, an order under Section 77A of the MCS Act appointing an Administrator was passed. The order was issued without publication of the proclamation mandated by the statute. The requirement of proclamation is not an empty formality. It serves to inform members and stakeholders of the proposed supersession. Dispensing with it is permissible only in rare and exceptional situations.

10. This Court has consistently held that such dispensation cannot be treated as routine. In *Harish Arora and others versus The Deputy Registrar of Cooperative Societies and others dt. 9 June 2025 passed in WP (Civil) No. 3433 of 2025*, this Court has made it clear that the power to dispense with notice or proclamation is extraordinary in nature. It can be exercised only where urgency is demonstrated and reasons are recorded. Administrative convenience or haste does not justify such departure. In the present case, no special reasons are recorded. The order therefore stands vitiated on this ground alone.

11. The Revisional Authority, while confirming the order of the Assistant Registrar, observed that the society had admitted its failure to provide documents. This finding is plainly contrary to the record. Copies of the documents were already furnished to the office of the Assistant Registrar on 18 November 2024. The society again called upon respondent No.2 on 3 February 2025 to collect the documents. The refusal by respondent No.2 on 5 February

2025 is admitted. In the face of these facts, recording an admission of failure on the part of the society reflects non application of mind.

12. The apprehension expressed in the communication dated 18 November 2024 thus stands borne out by subsequent events. The sequence shows that respondent No.2 was intent on securing disqualification rather than obtaining documents. Disqualification of an elected managing committee is a drastic step. It strikes at the democratic functioning of a cooperative institution. Such power must be exercised with restraint. It can be invoked only where willful and persistent defiance is established after granting reasonable opportunity.

13. In the present case, the society demonstrated readiness and willingness. The documents were made available. The member was called upon to collect them. His refusal cannot be converted into a ground to penalize the petitioners. The law does not permit a party to take advantage of its own refusal. The order disqualifying the entire managing committee is therefore ex facie arbitrary. It is unsupported by evidence and contrary to settled principles governing exercise of such power.

14. For these reasons, the orders passed by the authorities disqualifying the entire managing committee for a period of five years cannot be sustained. They are quashed and set aside. The consequential order passed under Section 77A of the MCS Act appointing an Administrator falls with it and is also quashed and set aside.

15. The writ petitions stand disposed of in above terms. No costs.
16. Pending interlocutory application(s), if any, stands disposed of.

(AMIT BORKAR, J.)