Ashish

ASHISH SAHEBRAO MHASKE
Digitally signed by ASHISH SAHEBRAO MHASKE
Date: 2025.09.12 18:09:44 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11761 OF 2025

Dhananjay Raghunath Daund … Petitioner

V/s.

Divisonal Joint Registrar Co-op Societies Mumbai and ors … Respondents

Mr. Siddhesh Bhole a/w Mr. Ashwin Pimpale i/b Mr. Suyash Sule for the Petitioner.

Mr. Y. D. Patil, AGP for State.

Mr. Akshay Patil a/w Mr. Abhishekh Bhatt, a/w Mr. J Doshi a/w Mr. Prateek Jain i/b Malvi Ranchoddas & Co for respondent no.3.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 12, 2025

P.C.:

1. The present Petition challenges an interim order passed by the Revisional and Appellate Authority. The Petitioner had approached the Superior Authority by filing an Appeal under Section 152 of the Maharashtra Co-operative Societies Act, 1960 (for short "MCS Act") and a Revision under Section 154 of the MCS Act. Both proceedings assailed two orders, namely, (i) the order of disqualification under Section 154B-23, and (ii) the order of appointment of an Authorised Officer under Section 77A of the MCS Act. Though the Appellate and Revisional Authority admitted the Appeal and Revision, interim relief was refused. It is this

refusal that has led the Petitioner to invoke the writ jurisdiction of this Court.

2. At the outset, the learned Advocate appearing for respondent No. 3 submitted that the hearing of the Appeal and Revision is already concluded. According to him, the Superior Authority is likely to deliver the final order within a day or two. On this basis, a request was made that hearing of this Petition be deferred by a short period, so that the Superior Authority may decide the matter on merits.

3. Ordinarily, such a request would have been acceded to by this Court. However, upon a careful perusal of the record placed before me, I find that the facts disclosed are of such a grave and exceptional nature that they compel the exercise of this Court's extraordinary constitutional jurisdiction under Article 226 of the Constitution of India. To defer the matter would result in perpetuation of a manifest injustice, which the law does not countenance.

4. The primary reasons for invoking such jurisdiction are that the disqualification of the entire Managing Committee has been founded upon alleged non-furnishing of two documents: (a) Unaudited Statement of Affairs of the Housing Society, and (b) Income and Expenditure Statement.

5. The record indicates that on account of non-furnishing of the aforesaid documents, a show cause notice was issued to the entire Managing Committee. It is noteworthy that the show cause notice itself referred to a different set of documents than the ones

ultimately relied upon in the order. Despite this discrepancy, the Managing Committee was held liable and disqualified under Section 154B-23. Consequentially, the powers under Section 77A were invoked, and an Authorised Officer was appointed, thereby superseding the democratically elected body.

6. The challenge to these orders is admittedly pending before the statutory authorities. However, in my considered view, even at this stage, the nature of the alleged lapse attributed to the Managing Committee and the severity of the punishment imposed are wholly disproportionate. The disqualification of the entire Committee and supersession of its elected mandate on the basis of non-furnishing of two financial statements, without establishing mala fides, fraud, or misappropriation, runs contrary to the spirit of the co-operative movement. The principles of democratic functioning, autonomy, and participatory decision-making, which lie at the core of co-operative jurisprudence, stand seriously undermined by such an action.

7. The law contemplates that serious and exceptional circumstances alone justify the extreme measure of superseding an elected Managing Committee. Minor lapses of compliance, especially those relating to procedural or clerical defaults, cannot be equated with misconduct warranting disqualification. The doctrine of proportionality, now firmly embedded in administrative law, requires that the punishment imposed must have a rational nexus to the gravity of the default. In the present case, that balance is conspicuously absent.

8. In my considered view, the peculiar facts of the present case justify exercise of jurisdiction by this Court to grant interim protection. Merely because the Revisional Authority has already reserved the matter for orders, it cannot be a ground to deny relief, if the action complained of is found to be prima facie arbitrary or disproportionate. If the order of disqualification and supersession is allowed to operate in the meantime, the elected body of the Society will stand displaced and an outsider will take charge as Administrator. Such a course, if later found unsustainable, would cause irreparable prejudice not only to the Petitioner but also to the democratic rights of members of the Society.

9. The balance of convenience is also in favour of the Petitioner. The records do not disclose any allegation of misappropriation, fraud, or diversion of funds. The disqualification has been imposed solely for non-furnishing of two financial statements. This by itself does not warrant such a drastic measure of supersession of the entire Committee. Hence, the interference by this Court at this stage is necessary to prevent injustice.

10. I am therefore of the opinion that, notwithstanding the fact that the Revisional Authority has reserved its order, a case is made out for grant of interim relief. Accordingly, there shall be stay to the operation and effect of the order of disqualification under Section 154B-23 as well as the consequential order of appointment of Administrator under Section 77A. This protection shall continue till the Revisional Authority pronounces its final decision.

11. It is made clear that in the event the Appeal or Revision is decided against the Petitioner, the interim protection granted by this Court shall remain in force for a further period of six weeks from the date of communication of the order of the Appellate or Revisional Authority.

12. With this, Petition stands disposed of.

(AMIT BORKAR, J.)