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

**WRIT PETITION NO.12724 OF 2025**

Brenden D'Silva &amp; Ors.

... Petitioners

**V/s.**

Divisional Joint Registrar, Coop.

Societies &amp; Ors.

... Respondents

Mr. Clive D'Souza i/by Mr. Raphael D'Souza for the petitioners.

Mrs. Sulbha Chipade, AGP for respondent Nos.1 and 2-State.

Mr. Kishor Patil with Ms. Akshada Nagrole i/by Mr. Pratik Rahade for respondent Nos.3 to 5.

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**CORAM : AMIT BORKAR, J.**

**DATED : SEPTEMBER 29, 2025**

**P.C.:**

1. The petitioners, who are members of the Managing Committee of a housing society, have approached this Court challenging the order passed by the Appellate Authority under Section 152 of the Maharashtra Cooperative Societies Act, 1960 (for short, "the MCS Act"), by which an Administrator has been appointed to manage the affairs of the society on the ground of lack of quorum in the Managing Committee.

2. Learned Advocate for the petitioners submitted that the housing society consists of more than 150 members. Therefore, in the ordinary course, the Managing Committee should consist of 13 members. However, since reserved category candidates, as

contemplated by Section 154B-19 of the MCS Act, are not available, the proviso to Section 154B-21 becomes applicable. According to this proviso, till such reserved category candidates are available, the quorum for holding meetings of the Managing Committee shall be determined by excluding such unavailable candidates. Hence, for this society, the quorum would be construed as 11, and a presence of 6 members would be sufficient. On this basis, he contended that on the date of co-option, 6 members were present, who co-opted the 7th member, and therefore, the order under Section 77A appointing an Administrator was not justified.

3. Per contra, learned Advocate for respondent Nos. 3 to 5 submitted that the petitioners have an alternative and efficacious remedy of filing a revision under Section 154 of the MCS Act. He further submitted that as per the Bye-Laws of the society, the Managing Committee consists of 9 members, which requires a quorum of 5. According to him, applying the proviso to Section 154B-19, the quorum should be taken as two-thirds of the required strength for conducting a valid meeting of the Managing Committee. Hence, the decision of the petitioners cannot be sustained, and no interference is warranted in the present writ petition.

4. Learned AGP appearing for the State has supported the order of the Registrar. He also submitted that the petitioners have an alternative remedy of filing a revision under Section 154 of the MCS Act, and therefore, the writ petition deserves to be rejected on the ground of availability of such statutory remedy.

5. Having considered the rival submissions, it is clear that the Full Bench of this Court in *Shireen Sami Ghadiali & Ors. vs. Spenta Cooperative Housing Society Limited*, 2011 (3) Mah.L.J. 486, has explained the scope of remedy under Section 154 of the MCS Act. It has been held that ordinarily, such remedy should be availed as a matter of right. However, if the controversy raised is already covered by binding precedent of this Court, or if the point stands settled, then the writ petition need not be dismissed only on the ground of availability of such remedy.

6. In the present case, there is no direct authoritative pronouncement on the specific issue regarding the manner in which quorum is to be calculated in the event of reserved category candidates being unavailable. Both sides have relied upon statutory provisions and Bye-Laws, which require closer examination by the Revisional Authority. Hence, in my opinion, the appropriate course would be to remand the matter for fresh consideration in revision, while protecting the interest of the society as well as of the petitioners during such pendency.

7. Prima facie, it appears that Section 154B-19 deals with the general rule of constitution of the Managing Committee, requiring two-thirds members to be elected. However, Section 154B-21 specifically provides for a situation where reserved category candidates are not available. In such a case, the quorum is to be calculated by excluding the seats meant for such unavailable candidates. This statutory provision supports the submission of the petitioners that presence of 6 members in the present case could be considered sufficient. This is a substantial issue which requires

adjudication by the competent Revisional Authority.

8. Hence, the following order is passed:

a) The petitioners shall, within two weeks from today, file a revision application before the competent Revisional Authority challenging the order passed under Section 152 of the MCS Act.

b) The order of appointment of Administrator shall remain stayed during the pendency of the revision application and for a further period of two weeks from the date of its disposal, if decided against the petitioners.

c) The Revisional Authority shall decide the revision application within three months from the date of its filing.

9. The writ petition is accordingly disposed of in the above terms. No costs.

**(AMIT BORKAR, J.)**