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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12871 OF 2025

Jijau Coop. Housing Soci. Ltd.,
Plot No.4, 5, 6, 7, Sector-17, Kamothe,
Navi Mumbai 410 209,
Through it's secretary Rajendra Singh,
Age 40 years, Occupation: Business
R/at Room No.20, Bori Building,
Ram Tekdi Road, Sewri,
Mumbai 400 015

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... Petitioner

V/s.

1. **State of Maharashtra,**
Through the Secretary, Cooperation,
Mantralaya, Mumbai
2. **The Joint Registrar,**
Cooperative Societies, CIDCO,
Tower No.8, Fifth Floor,
Belapur Railway Station Complex,
CBD Belapur, Navi Mumbai
3. **Assistant Registrar,**
Cooperative Societies, CIDCO,
Tower No.8, Fifth Floor,
Belapur Railway Station Complex,
CBD Belapur, Navi Mumbai.
4. **Balasaheb Narayan Shere,**
Age Adult, Occupation Business,
R/at Flat No.204, Jijau CHS LTd.
Plot Nos.4 to 7, Sector-17, Kamothe,
Navi Mumbai 410 209
5. **Shatrugna Nanavare,**
Age Adult, Occupation: Business,

R/at Flat No.401, Jijau CHS LTD.
Plot Nos.4 to 7, Sector-17, Kamothe,
Navi Mumbai 410 209

6. Chandrakant Shirke,
Certified Auditor and Authorised Officer,
C/o. Assistant Registrar, Cooperative
Societies, CIDCO, Tower-8, 5th Floor,
CBD Belapur Station, Navi Mumbai

... **Respondents**

Mr. Vivek V. Salunke with Mr. Manthan A. Chaudhari
for the petitioner.

Dr. Dhruti Kapadia, AGP for respondent Nos.1 to 3-
State.

Mr.B.A. Lawate for respondent Nos.4 and 5.

CORAM : AMIT BORKAR, J.

RESERVED ON : NOVEMBER 07, 2025

PRONOUNCED ON : NOVEMBER 11, 2025

JUDGMENT:

1. The petitioner questions the legality of the order dated 26 August 2025 passed by respondent No.2 in Appeal No.39 of 2025. Respondent No.2 dismissed the appeal and confirmed the order dated 13 February 2025 passed by respondent No.3. By this order, respondent No.3 removed the managing committee of the petitioner housing society and appointed an Administrator to handle the day-to-day affairs of the society.

2. The facts giving rise to this petition are as follows. The petitioner is a cooperative housing society registered under the Maharashtra Cooperative Societies Act, 1960. In the General Body

Meeting held on 26 June 2022, the members decided to undertake repair and painting of the building due to its deteriorated condition. The General Body passed a resolution that each member shall contribute Rs.10,000 per month for five or ten months. In the Special General Body Meeting held on 14 August 2022, the Structural Auditor appointed by the society gave a presentation on the nature of repairs and estimated expenses. The members then resolved that each member would make equal interim contributions and that after completion of the repair work, the final contribution amount would be recalculated.

3. On the complaint of respondent Nos.4 and 5, respondent No.3 issued a letter dated 6 June 2024 directing the society to provide records to respondent Nos.4 and 5 and to collect maintenance strictly as per Bye law No.67. On 8 July 2024, respondent No.3 appointed an advocate as an Authorized Officer to ensure compliance with the earlier direction. Based on his report, respondent No.3 issued a letter dated 26 August 2024 to the Executive Magistrate, Panvel. The petitioner then sent a letter dated 12 September 2024 to the Authorized Officer and submitted the documents demanded by respondent No.3. The Authorized Officer gave his report dated 15 October 2024 stating that the society was not functioning as per the Bye laws and the provisions of the Act.

4. Relying on that report, respondent No.3 issued a show cause notice dated 28 November 2024 asking the petitioner to explain why an Administrator should not be appointed. The petitioner submitted its reply on 4 February 2025 explaining that the society

had complied with the Act and all directions. Despite this reply, respondent No.3 passed an order on 13 February 2025 removing the entire managing committee and appointing an Administrator for the society.

5. The petitioner then filed Appeal No.39 of 2025 under Section 152 of the Act. Respondent No.2 dismissed the appeal by order dated 26 August 2025. Hence, this writ petition.

6. Learned counsel for the petitioner submitted that respondent Nos.2 and 3 failed to consider that the General Body had approved the contribution scheme as a temporary arrangement for collecting funds for repairs. The building urgently required repairs and 95 percent of the members paid their contribution. The repair work was completed by using that contribution. He submitted that the society had provided all documents sought by respondent Nos.4 and 5. According to him, removal of the entire managing committee for alleged non submission of documents is a drastic and excessive step. He argued that the power under Section 78A of the Act cannot be used mechanically.

7. He relied on the judgment of this Court in *Shalikram Shivram Khobhagade v. Divisional Joint Registrar, Cooperative Societies, Nagpur, 1998 (1) Mh.L.J. 206*. He submitted that respondent No.3 passed the order without meaningful consultation with the Federal Society as required by law. He pointed out that there are no allegations of financial irregularity or siphoning of funds. He submitted that on vague allegations of non compliance, such extreme action could not have been taken. He argued that in

view of the binding legal position stated in *Shalikram Khobragade*, the petitioner need not be compelled to pursue the remedy under Section 154 of the Act, relying on the Full Bench judgment in *Shireen Sami Ghadiali v. Spenta Cooperative Housing Society Limited*, 2011(3) Mh.L.J. 486.

8. Learned counsel for respondent Nos.4 and 5 and learned Assistant Government Pleader for the State supported the impugned orders. They submitted that the managing committee failed to submit complete records despite repeated directions. Due to this, respondent No.3 had no choice but to take action under Section 80 of the MCS Act. They submitted that interim contribution for repairs was collected without following Bye law No.67. According to them, respondent No.3 was justified in removing the managing committee and appointing an Administrator. They submitted that the orders passed by the authorities are legal and do not call for interference.

9. For deciding the issue, it is necessary to set out Section 78A of the Maharashtra Cooperative Societies Act, 1960. It reads as follows.

78-A. Power of supersession of committee or removal of member thereof.— (1) If in the opinion of the Registrar, the committee or any member of such committee has committed any act, which is pre-judicial to the interest of the society or its members or if the State Cooperative Election Authority has failed to conduct the elections in accordance with the provisions of this Act or where situation has arisen in which the committee or any member of such committee refuses or has ceased to discharge its or his functions and the business

of the society has, or is likely to; come to a standstill, or if serious financial irregularities or frauds have been identified or if there are judicial directives to this effect or, if there is a perpetual lack of quorum or, where in the opinion of the Registrar the grounds mentioned in sub-section (1) of Section 78 are not remedied or not complied with, or where any member of such committee stands disqualified by or under this Act for being a member of the committee, the Registrar may, after giving the committee or the member, as the case may be, an opportunity of stating its or his objections in writing as provided under sub-section (1) of Section 78 and after giving a reasonable opportunity of being heard, and after consultation with the federal society to which the society is affiliated comes to a conclusion that the charges mentioned in the notice are proved, and the administration of the society cannot be carried out in accordance with the provisions of this Act, rules and by-laws, he may by order stating reasons therefor,—

- (a)(i) supersede the committee; and
- (ii) appoint a committee consisting of three or more members of the society otherwise than the members of the committee so superseded, in its place, or appoint an administrator or committee of administrators who need not be the members of the society, to manage the affairs of society for a period not exceeding [twelve months]:

Provided that, the Registrar shall have the power to change the committee or any member thereof or administrator or administrators appointed at his discretion even before the expiry of the period specified in the order made under this sub-section:

Provided further that, such federal society shall communicate its opinion to the Registrar within forty-five days, from the date of receipt of communication, failing

which it shall be presumed that such federal society has no objection to the order of supersession or removal of a member and the Registrar shall be at liberty to proceed further to take action accordingly:

Provided also that, in case of a society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, (10 of 1949) shall also apply and the committee shall not be superseded for a period exceeding one year:

(b) remove the member:

Provided that, the member who has been so removed shall not be eligible to be re-elected, re-co-opted or renominated as a member of any committee of any society till the expiry of period of next one term of the committee from the date on which he has been so removed:

Provided further that, in case of a society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, (10 of 1949) shall also apply.

(2) The provisions of sub-sections (3), (4), (5) and (6) of Section 78 shall apply mutatis mutandis, in relation to supersession or removal under this Section.”

10. Section 78A gives the Registrar a serious power. The law permits removal of the elected managing committee only when clear conditions exist. The power affects the democratic functioning of a cooperative society. Therefore, the power must be used with caution. The Registrar must form an opinion on the basis of material on record. He must give notice, invite objections, grant hearing, and consult the federal society.

11. For clarity, each contingency under Section 78A is examined separately.

Act which is pre-judicial to the interest of the society or its members:

12. When the law permits the Registrar to remove an elected committee on the ground that the committee or any of its members has acted in a manner prejudicial to the interest of the society or its members, the focus is on actual harm. The harm must be real. It cannot be based on suspicion or personal dislike. The interest of a cooperative housing society centres around proper use of funds, transparent decisions, and fair treatment of all members. When an act of the committee damages these interests, the Registrar can step in. For example, if a committee member signs a repair contract of large value without the approval of the General Body and without inviting quotations, the act exposes the society to financial loss. This harms the society. Another example is when a committee allows expenditure from the society's bank account without maintaining records and without placing accounts before the General Body. Such conduct causes risk and loss.

13. At the same time, mere difference of opinion cannot be called prejudicial. If members disagree on the colour of painting or arrangement of parking, it does not cause legal harm. Even if a few members are unhappy with a decision that was approved in a valid General Body Meeting, that disagreement does not justify supersession of the committee. The law expects elected committees to take decisions. Every decision will not please everyone. The test is not whether someone feels aggrieved. The test is whether the act harms the society's legal or financial interest.

14. While deciding whether an act is prejudicial, the Registrar must look at evidence such as records, minutes, accounts, and correspondence. Vague complaints without documents cannot form the basis of extreme action. The elected committee is answerable, but removal is permitted only when the harmful act is established through material on record.

15. Thus, to invoke this power, the Registrar must see that the act resulted in real harm to the society or its members. If the act has not caused harm, or if the issue can be corrected through directions or compliance, removal of the committee is not justified.

State Cooperative Election Authority failed to conduct the elections:

16. The next contingency arises when the State Cooperative Election Authority fails to conduct elections as required under the Act. Elections are the foundation of a cooperative society. The committee can function only for its fixed term. When that term ends, a new committee must take charge through a lawful election.

17. If the Election Authority does not conduct elections in time, the society may be left without an elected committee. In that situation, the society cannot take decisions on essential matters. For example, without a valid committee, the society cannot approve the budget, pass resolutions, or sign documents with government departments. Members then face difficulty in their daily affairs.

18. Section 78A recognises this difficulty. It allows the Registrar to appoint an Administrator when the Election Authority fails to

hold elections despite the end of the term of the committee. The Administrator takes care of the routine affairs until elections are conducted.

19. However, the power must be used carefully. A minor delay in some preliminary steps of the election process cannot justify supersession. If the Election Authority has already published the voters list and started the process, the Registrar must allow the process to conclude. Removal is not justified merely because a few dates were rescheduled or some members raised objections.

20. The law requires real failure to conduct elections and not a temporary delay. Before using this power, the Registrar must form a clear opinion that the delay has caused disruption in the functioning of the society. If the election process is in motion and the committee is cooperating, supersession is not required.

21. Therefore, this provision ensures that no vacuum is created in the management of the society. It is a safeguard to protect the democratic functioning of a cooperative society. The purpose is to keep the society running smoothly and not to interfere with the rights of elected representatives unless there is a complete failure in the election process.

Committee or any member of such committee refuses or has ceased to discharge its or his functions:

22. The law next deals with a situation where the committee or any of its members refuses to carry out their duties. A cooperative society runs on collective decision making. The committee must hold meetings, maintain records, make payments for essential

services, and respond to members' grievances. When the committee stops performing these duties, the work of the society comes to a halt.

23. To apply this ground, two conditions must exist. First, the committee or a member must refuse or stop performing the assigned functions. Second, due to this refusal, the affairs of the society must stop or are about to stop. Both conditions must be supported by evidence.

24. An example will make the position clear. If the committee refuses to sign cheques for water charges or electricity bills, essential services will get disconnected. That shows that the functioning of the society has come to a standstill. Another example is when members of the committee stop attending meetings and no quorum is available. Decisions cannot be taken. Repairs, maintenance, and regular affairs get delayed indefinitely. Such conduct harms the interest of the society.

25. However, temporary difficulties or delay do not mean that the committee has stopped functioning. If one meeting is postponed because some members were travelling or unwell, business of the society has not come to a standstill. If the committee takes time to collect quotations for repairs or seeks advice from an auditor, that is part of lawful functioning. These are not grounds to remove the committee.

26. The Registrar must examine whether there is refusal or complete inaction on the part of the committee. He cannot act merely because some members are dissatisfied or because they

expect quicker decisions. A cooperative society involves discussion and consultation. Delay that arises from due process cannot be treated as refusal to perform duties.

27. The law expects the Registrar to use this power only when the committee's refusal results in stoppage of administration. If the problem can be solved by issuing directions or by calling a General Body Meeting, the Registrar should adopt that course first. Supersession is justified only when the society cannot function under the existing committee.

Serious financial irregularities or frauds have been identified:

28. Another ground under Section 78A is where serious financial irregularities or frauds are identified. This ground deals with cases where the committee mishandles society funds, uses money for personal benefit, or hides financial transactions. A cooperative society runs on the contributions of its members. Every rupee collected and spent must be accounted for. Transparency in accounts is not optional. It is a legal duty.

29. For this ground to apply, there must be clear material showing irregularity or fraud. The Registrar must rely on documents such as audit reports, bank statements, vouchers, receipts or inspection reports. Mere complaints or suspicions are not enough.

30. For example, if the audit report shows that money has been withdrawn in cash without vouchers or bills, and the committee cannot explain where the money was spent, that indicates financial irregularity. If payments are made to a contractor who does not

exist, or if bills are inflated to benefit a committee member's relative, it amounts to fraud. In such cases, supersession is justified because society funds are at risk and immediate action is necessary to prevent further loss.

31. However, mistakes without wrongful intent do not amount to financial irregularity. If the accountant makes an error in entering an amount, or receipt books are updated a few days late due to workload or holidays, there is no fraud. Such minor mistakes can be corrected through directions, additional audit, or guidance. Removal of the committee is not justified.

32. The test is whether society funds are in danger or whether the committee has acted dishonestly. If the issue can be resolved by giving directions for corrective action, the Registrar must choose that path. Supersession is the last option. The law expects use of this power only when the evidence points to serious misuse of money or intentional fraud, and not when the problem is clerical or procedural.

33. Thus, financial irregularity as a ground must be supported by documents and clear proof. Without that, removal of an elected committee would be against the spirit of cooperative democracy.

If there are judicial directives:

34. Another contingency arises when a court issues specific directions. When a court orders the Registrar to look into the affairs of a society and take necessary action, the Registrar must act as per that direction. Courts issue such directions only when material is placed before them showing that the functioning of the

society is obstructed, or that the committee is acting contrary to law.

35. When a judicial directive exists, the Registrar does not have discretion to ignore it. He must examine the records, give notice to the committee, invite objections, grant hearing, and then take a reasoned decision. The Registrar is not expected to act blindly. He must examine whether the material supports the action.

36. For example, if a court is hearing a dispute where the committee is refusing to follow lawful orders of the court relating to disclosure of records or holding elections, the court may direct the Registrar to take necessary action in accordance with law. In such a situation, the Registrar must review the conduct of the committee. If the committee continues to disobey, supersession may be a justified step.

37. However, not every observation of a court amounts to a judicial directive. If a court merely advises the parties to approach the Registrar or mentions that the Registrar may examine the matter, it is not an order directing removal or supersession. In such cases, the Registrar cannot treat that observation as a direction to supersede the committee. He must independently apply his mind.

38. Further, the court's direction does not automatically result in supersession. The Registrar is still bound to follow the procedure laid down in the Act. He must issue a show cause notice, allow a reasonable opportunity of being heard, and consult the federal society. Only after these steps and only if the situation warrants it, the Registrar may remove the committee.

39. Therefore, this ground operates only where there is a clear judicial order directing examination and action. The purpose is to ensure that court orders are carried out and that the administration of the society is not paralysed by non cooperation of the committee. The power under this clause cannot be used as a shortcut to remove an elected committee without proper material or proper procedure.

Perpetual lack of quorum:

40. The next ground deals with a situation of perpetual lack of quorum in the meetings of the managing committee. A committee can function only if the required minimum number of members are present in the meeting. Decisions can be taken only when quorum is present. Without quorum, meetings are adjourned and no decisions can be made.

41. When members of the committee repeatedly remain absent in such a manner that meetings cannot be conducted and decisions cannot be taken for a long time, it shows that the committee is either unwilling or unable to run the society. For example, if for several months none of the meetings achieve quorum and essential matters like payment of electricity bills, appointment of contractors, or finalisation of accounts remain pending, then the administration of the society comes to a halt. In such a case, the law allows the Registrar to intervene.

42. This provision takes care of a practical problem seen in many societies. Sometimes some members of the committee intentionally do not attend meetings because they want to create pressure or

obstruct the functioning of the committee. If such behaviour continues and the society suffers, the Registrar can step in to ensure that the society does not remain without administration.

43. However, occasional absence of some members does not amount to perpetual lack of quorum. If a meeting or two gets adjourned because some members had personal difficulties or urgent work, that does not justify removal of the committee. The absence must be continuous and intentional, resulting in failure of administration. Before taking action, the Registrar must examine the minutes of meetings, attendance records, and notices issued to committee members. He must satisfy himself that the committee as a whole is unable to function due to lack of quorum.

44. This safeguard prevents misuse of the provision. The power cannot be exercised merely because some members disagree or because meetings are delayed on a few occasions. The test is whether the functioning of the society has been paralysed. If the committee is attempting to function and the issue can be resolved by calling a General Body Meeting or by issuing directions, the Registrar must adopt that course. Supersession should be ordered only when continuous absence makes it impossible for the committee to perform its legal duties.

45. Thus, the law recognises that democratic bodies must function. If a committee stops functioning by avoiding meetings and thereby blocks the administration of the society, supersession becomes necessary to protect the interest of the members.

Grounds mentioned in sub-section (1) of Section 78 are not remedied or not complied with:

46. Another ground exists when the committee does not comply with directions issued under Section 78(1). Section 78 empowers the Registrar to point out defects or irregularities in the functioning of the committee. After issuing a show cause notice, the Registrar may direct the committee to correct those defects within a fixed time.

47. If the committee takes corrective action and shows willingness to comply, there is no need for further intervention. But if the committee ignores the directions, refuses to cooperate, or shows no intention to correct the irregularities, then Section 78A comes into play.

48. For example, if the Registrar directs the committee to prepare and submit statutory accounts and supporting documents within thirty days, and the committee does nothing and does not give any valid explanation, it shows deliberate non compliance. Similarly, if the Registrar directs the committee to stop an unauthorised expenditure and the committee continues to spend money in violation of the direction, it shows disregard for the law.

49. However, minor delay due to genuine difficulty does not justify removal. If the committee has collected all documents but the auditor takes some extra time to finalise the audit, then the committee cannot be blamed. If the committee shows that steps are being taken and places progress on record, supersession is not justified.

50. The law expects good faith and reasonable effort. The Registrar must see whether the committee has failed to comply deliberately, or whether the delay occurred due to reasons beyond control. Before exercising the power under Section 78A, the Registrar must examine the material on record. He must give an opportunity to the committee to explain why the directions could not be complied with. Removal cannot be based on assumption or suspicion.

51. Therefore, this contingency ensures that the committee respects statutory directions. It also protects the committee from harsh action when it is willing to comply and is acting in good faith. The focus remains on whether the committee has taken steps to correct the defects pointed out under Section 78. Only when deliberate non compliance is established, supersession can be considered.

Any member of such committee stands disqualified under this Act:

52. Another ground applies when any member of the managing committee becomes disqualified under the Act. The law lays down specific conditions under which a person cannot continue as a committee member. These conditions ensure that only eligible and responsible persons manage the affairs of the society.

53. A member stands disqualified in situations such as non payment of society dues beyond the permitted period, conviction for an offence involving moral wrongdoing, or holding an office that the Act prohibits. When such a disqualification occurs, the member cannot continue on the committee. The committee must

remove that member and inform the Registrar.

54. For example, if a committee member fails to pay regular maintenance charges for many months and becomes a defaulter under the bye laws, that person cannot remain a committee member. If the member continues to sit in meetings and influence decisions, it affects fairness and accountability. In that situation, the Registrar can intervene and remove such member.

55. Another example is where the law prohibits a developer or a paid employee of the society from being on the committee. If such a person gets elected or continues to function despite disqualification, the Registrar can use the power under Section 78A.

56. However, the Registrar must ensure that the disqualification is real and supported by records. If a member is mistakenly shown as a defaulter due to clerical error and has proof of payment, the member is not disqualified. The Registrar cannot act on complaints without verifying records.

Consultation with the federal society:

57. The statute requires that before removing the committee under Section 78A, the Registrar must consult the federal society to which the society is affiliated. This requirement is not a mere formality. The consultation must be meaningful and genuine. The federal society is an independent body having experience in cooperative functioning. It acts as a safeguard so that elected committees are not removed casually or on insufficient grounds.

58. Consultation serves two purposes. First, it provides an outside and neutral assessment. Second, it protects the cooperative movement from arbitrary interference by authorities. For example, if complaints are made by a few members due to personal rivalry, the federal society may point out that the issue can be resolved by calling a General Body Meeting or by following proper procedure. In such a case, removal of the committee is unnecessary.

59. The law requires that consultation with the federal society should not be a mere formality. It must be meaningful. The Registrar must place all relevant material before the federal society. This includes copies of the show cause notice, reply of the committee, inspection or inquiry reports, and any other documents on which the Registrar proposes to rely. Only then can the federal society express a proper opinion. If the Registrar sends only a covering letter without the supporting record, the consultation becomes empty. The federal society cannot apply its mind unless it has complete information. The purpose of consultation is to create a check on arbitrary use of power. The federal society is expected to give an independent view on whether supersession is necessary and whether the circumstances justify removal of an elected committee. Therefore, the Registrar must ensure that the federal society receives all papers relevant to the proposed action. Only after the federal society has a chance to consider these papers and give its opinion can the Registrar proceed to take a final decision. If the opinion is not obtained after sharing all necessary material, the requirement of meaningful consultation is not fulfilled in the eye of law. He must give the federal society adequate time to

examine the record and offer its opinion. If the federal society raises objections or suggests corrective measures short of supersession, the Registrar must consider the suggestions. If no opinion is received within the allotted time, then the Registrar may proceed. Thus, consultation with the federal society is a mandatory safeguard. It prevents misuse of the power of supersession.

60. The purpose of this provision is to protect the society from being controlled by persons who are not legally eligible to be on the committee. It ensures that only qualified members continue to manage the affairs of the society. But the power must be used only when the disqualification is clear and established. Removal should not be ordered when the issue can be resolved by correction of records or clarification. Thus, supersession under Section 78A is permitted only when the material on record shows clear violation of law or failure of administration. This power affects the democratic structure of the society. It removes an elected body and replaces it with persons who are not elected by the members. Such action cannot be taken lightly. The law expects the Registrar to interfere only when the committee's conduct endangers the functioning of the society or harms the rights of the members.

61. Minor mistakes, delay in paperwork, or misunderstanding between members do not justify supersession. For example, if the committee calls a General Body Meeting a few days late because the hall was not available, that is a procedural lapse. It does not show misuse of power or failure of administration. If some members are unhappy with the colour of the building paint, that is not a ground to remove the committee. These matters are part of

regular internal management and are best resolved within the society.

62. The Registrar must look for clear evidence that the committee has acted against the law or that society work has come to a standstill. Before exercising power, the Registrar must check the records, verify complaints, call for explanations, and give opportunity to respond. Removal cannot be based only on allegations or on the insistence of a few disgruntled members.

63. The purpose of Section 78A is to protect the society from serious harm, not to disturb the democratic functioning of societies for minor issues. The section ensures that the committee follows the Act, the Rules, and the Bye laws. At the same time, it protects the committee from arbitrary or motivated action by ensuring that supersession can take place only when justified through proper procedure and clear material on record.

64. After reaching satisfaction that the elected committee cannot be continued, the Registrar may take the next step. The law permits the Registrar to appoint a new committee consisting of three or more members of the society, but such persons cannot be those who have been removed.

65. If the Registrar finds that no suitable persons are available from within the society to form a temporary committee, he may appoint an Administrator or a committee of Administrators. The law permits this option because sometimes internal disputes are so intense that no member is willing or able to take responsibility. At times, factions within the society prevent smooth administration.

In such a situation, selecting members from within the same group may worsen the dispute. The law, therefore, gives power to bring in an outside neutral person.

66. The Administrator acts as a caretaker. His duty is to run the day-to-day affairs of the society. He must maintain accounts. He must ensure compliance with the Act, Rules and Bye laws. He must prepare the society for proper elections within the permitted time. He cannot take major policy decisions. He cannot make long term commitments that bind the future elected committee.

67. Appointment of an outsider is not the first choice. It is only a last resort. The scheme of the Act shows that the primary right to manage the affairs of the society rests with its own members. When the Registrar decides to supersede the committee, he must first examine if responsible and eligible members of the society itself are available to form an interim committee. Only when such members are not willing or suitable should the Registrar think of appointing an outsider as the Administrator. Members know the day-to-day issues of the building, the financial needs, and the difficulties faced by residents. An outsider does not have the same understanding. Therefore, appointment of a member-based temporary committee must be explored first.

68. After fulfilling the legal requirements and considering all material, the Registrar must record reasons in writing. This is an important safeguard. Recording reasons shows how the Registrar applied his mind. It also ensures that the decision is based on facts and law, not on personal opinion or pressure from any person.

69. A written order with reasons serves several purposes. It informs the committee why action is taken. It enables the society and its members to understand the basis of the decision. It also allows a court to examine the correctness of the decision if it is challenged in judicial review.

70. For example, the order must state which specific act caused harm, which direction was not followed, or what material shows financial irregularity. The Registrar cannot simply state that “the committee failed in its duties.” He must explain the facts and the evidence that led to the conclusion. The reasons must be supported by records such as notices issued, replies received, audit reports, or minutes of meetings.

71. If the Registrar does not record reasons or gives vague reasoning, the order becomes arbitrary. In such a case, the action of supersession cannot be sustained because it affects the democratic right of members to have their elected committee. The law expects accountability when using this drastic power.

72. Thus, only when the Registrar has completed all steps, examined all grounds, consulted the federal society, given opportunity of hearing, and recorded clear reasons, can he pass an order to supersede the committee or remove any member. The requirement of recording reasons prevents misuse of power.

73. It is necessary to make the legal position clear for future guidance. When the Registrar decides to supersede a committee or remove a member, after following the procedure required under law, he must ensure that democratic management of the society is

restored without delay.

74. Therefore, it is directed that if the Registrar arrives at the conclusion that supersession is justified, the order of supersession shall clearly state that: (i) The Administrator shall start the election process within three months from the date he takes charge. (ii) The total period of administration shall not exceed twelve months. (iii) This period of twelve months shall not be extended for any reason.

75. These conditions are mandatory. They are not optional. The intent of the law is that elected members should handle the affairs of the society, not an Administrator for an indefinite period. Appointment of an Administrator is only a temporary arrangement to bring order and to ensure compliance with the Act.

76. If any order of supersession is passed without stating the above (i) to (iii) requirements, the Registrar shall be answerable to this Court. Failure to comply with this direction, even after this judgment is brought to the notice of the Registrar, may amount to willful disobedience. Such willful disobedience may invite action under the Contempt of Courts Act.

77. It is open to any aggrieved party to approach this Court if there is a breach of the above directions. This safeguard ensures that the democratic character of cooperative societies is not disturbed beyond what is strictly necessary and that members regain control of their own society within the time permitted by law. This ensures that the appointment of an Administrator remains a temporary measure. The Registrar is, therefore, bound

to ensure that elections are conducted within the maximum permitted period and control of the society returns to its members.

Findings:

78. I have heard both sides and examined the material placed on record. I have gone through the order of respondent No.3, the order passed in appeal by respondent No.2, the show cause notice, the reply filed by the society, the General Body resolutions, and the report of the Authorised Officer.

79. The record shows that the society passed resolutions in its General Body meetings to collect contribution towards major repair and painting work. The resolutions show that the members agreed to contribute a fixed amount every month as an interim arrangement. There is no dispute that about ninety five per cent members paid the contribution. The repair work was completed from the said contribution. The petitioner has placed the audit report and vouchers to show utilisation of funds.

80. Respondent No.3 issued directions to the society to furnish documents and to collect maintenance strictly as per Bye-law No.67. The petitioner furnished documents and correspondence shows that the Authorised Officer acknowledged receipt of documents. In spite of this reply and material, respondent No.3 held that the society was not functioning as per bye laws. Respondent No.3 proceeded to remove the entire managing committee under Section 78A.

81. Such power under Section 78A is drastic. The elected committee of a co-operative society represents the will of the

members. Law requires that such committee should not be removed unless clear grounds under Section 78A exist. The Registrar must be satisfied that the committee has committed acts which are prejudicial to the interest of the society. The Registrar must consult the federal society. The Registrar must record reasons.

82. Removal of an elected committee cannot be done only on suspicion or due to minor procedural lapses. The law recognises that disputes between members and committee are common in co-operative societies. That by itself does not justify supersession.

83. Here, the record does not show any allegation of misappropriation, siphoning of funds, or any financial irregularity. The Authorised Officer only stated that the society was not running as per the bye laws. Such observation does not identify any specific misconduct under Section 78A. When the statute requires reasons and satisfaction on specific grounds, the authority cannot act on vague statements.

84. I find merit in the submission of the learned counsel for the petitioner relying on the judgment of this Court in *Shalikram Shivram Khobhagade*. The Court has held that consultation with the federal society must be meaningful. Here, consultation appears to be a mere formality. There is nothing on record to show that the federal society applied its mind. Law requires active consultation, not mechanical approval.

85. Respondent Nos.4 and 5 could have utilised remedies available under the Act for inspection of records. They approached

respondent No.3 only because they disagreed with the contribution fixed by the General Body. When the General Body, which is the supreme authority of the society, has approved repair contribution, respondent No.3 could not substitute its own views for the decision of the General Body in absence of fraud or illegality.

86. The appellate authority, respondent No.2, merely affirmed the order without examining whether the mandatory requirements of Section 78A were satisfied. The appellate authority did not consider the plea of the petitioner that ninety-five per cent members supported the decision. No reasons are recorded on the issue of lack of financial irregularity or absence of consultation with the federal society.

87. Thus, the impugned orders do not satisfy the test of law required for supersession under Section 78A. The drastic action of removing an elected committee cannot rest on incomplete reasons or violation which is minor in nature. The record does not show that the society had stopped functioning or that the administration had collapsed.

88. The impugned orders dated 13 February 2025 and 26 August 2025 cannot stand. They are set aside.

(AMIT BORKAR, J.)