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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13007 OF 2025

Saket Cooperative Housing
Society Limited & Ors. ... Petitioners

V/s.

Government of Maharashtra & Ors. ... Respondents

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Mr. Anant Pande i/by Mr. Shobhit Shukla for the
petitioners.

Ms. Ashwini A. Purav, Agp for respondent Nos.1 to 4-
State.

Mr. Akash Rebello with Mr. Paras Gosar, Mr. Akash S.
Bhagil and Mr. nadeem Sharma for respondent Nos.5,
6, 9 to 13, 15, 16, 19 to 22, 25, and 26.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 16, 2025

P.C.:

1. Leave to amend to delete petitioner No.1 and add Varsha Vihar Coop. Housing Society Limited as party-respondent No.27. Amendment to be carried out forthwith.

2. The writ petition questions an order passed by the authorities under the Maharashtra Cooperative Societies Act, 1960, by which the registration of the newly added respondent society was cancelled by exercising powers under Section 21. The record shows that the proposal for cancellation did not originate from any individual grievance of members. It was moved at the instance of the managing committee of the society, the liquidator,

and the auditor. Thus, the foundation of the action was administrative material placed before the authority, and not an adjudication of inter se disputes between members. The power under Section 21 is drastic in nature. It results in civil consequences for the society and its members. Such power, therefore, has to be exercised strictly in the manner contemplated by law and on the basis of material on record.

3. The appellate authority and thereafter the revisional authority interfered with the cancellation order. Both authorities proceeded on the reasoning that since the newly added respondent is a housing society, its members ought to have been given an opportunity of hearing before cancelling the registration. This reasoning is legally sound. A housing society is not an abstract body. Its existence is inseparably linked with the rights and interests of its members. Any order cancelling its registration directly affects those rights. Denial of hearing to members of housing society violates basic principles of natural justice.

4. However, once the appellate and revisional authorities reached the conclusion that proper opportunity of hearing was not granted to the members, the logical and lawful course was to remit the matter back to the original authority. Setting aside the cancellation order without restoring the proceedings to the first authority leaves the statutory process incomplete. The defect found was procedural. Such a defect can be cured only by reopening the proceedings and granting a fair hearing at the original stage. The appellate and revisional authorities could not have substituted this requirement by finally terminating the proceedings.

5. In my opinion, therefore, the approach adopted by the appellate and revisional authorities is legally unsustainable. They correctly identified the violation of natural justice, but failed to apply the correct consequence in law. The power to cancel registration under Section 21 must be exercised after due compliance with statutory requirements and after giving all affected persons a reasonable opportunity of being heard. Without remand, the statutory authority is deprived of the opportunity to decide the issue afresh in accordance with law.

6. Hence, the following order is passed.

a) The order dated 3 July 2025 passed by respondent No.1 in Revision Application No.441 of 2022, confirming the order dated 25 August 2022 in Appeal No.339 of 2021, as well as the original order dated 26 December 2019, are quashed and set aside.

b) The proceedings are restored to the file of respondent No.4 for fresh decision.

c) Respondent No.4 shall call for the list of members from the newly added respondent society and shall issue individual notices to each member. If, despite due effort, the members are not traceable or available, respondent No.4 shall publish notice of the proceedings in a newspaper having wide circulation in the area of operation of the newly added respondent society.

d) Respondent No.4 shall consider all aspects relating to compliance with Section 21 of the MCS Act and shall pass a

fresh order strictly in accordance with law and on the basis of material placed on record.

e) Till the proceedings relating to cancellation are finally decided, the registration of petitioner No.1 society shall remain in abeyance.

7. With this clarification, the writ petition stands disposed of.

(AMIT BORKAR, J.)