

Shabnoor

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

WRIT PETITION NO.13111 OF 2025

SHABNOOR
AYUB
PATHAN
Digitally signed by
SHABNOOR AYUB
PATHAN
Date: 2025.10.07
16:29:24 +0530

Bhagwati Greens II Wing
Cooperative Housing Society Ltd. & Ors. ... Petitioners

V/s.

The Assistant Registrar,
Cooperative Societies & Anr. ... Respondents

Mr. Tejas Deshmukh i/b Mr. Gaurav Sharma, for the
petitioners.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 7, 2025

P.C.:

1. Leave to amend to add Mr. Shankar Patil, Assistant Registrar, Cooperative Societies, as a party respondent in the present writ petition.
2. Amendment shall be carried out forthwith.
3. Issue notice to Mr. Shankar Patil, Assistant Registrar, Cooperative Societies, returnable on **16 October 2025**. The purpose of issuing notice is to afford him an opportunity to place before the Court the legal basis and justification for the impugned action.
4. The Assistant Registrar shall explain, in clear terms, the source of power under which the impugned order has been passed. He shall file a personal affidavit disclosing the exact provision or

rule under the Maharashtra Cooperative Societies Act, 1960 or the Rules framed thereunder, which authorizes such an action. The affidavit shall also specify whether the order was passed in exercise of quasi-judicial or administrative discretion, and if claimed to be justified by “exponential needs” or “administrative exigency,” the material basis for such claim must be set out in detail.

5. The Assistant Registrar shall further explain why action, as contemplated in the judgment of the Supreme Court in *Union of India v. K.K. Dhavan* (1993) 2 SCC 56, should not be considered against him. The said decision recognizes that if a public officer acts in disregard of law or exceeds his authority, such conduct may invite disciplinary action. Therefore, unless the affidavit discloses a lawful basis and reasonable justification supported by record, the Court shall consider whether his conduct amounts to misuse or abuse of power warranting a departmental enquiry. The affidavit shall be filed on or before 16 October 2025.

6. On a prima facie examination of the material on record, it appears that no provision under the Maharashtra Cooperative Societies Act, 1960 confers power upon the Registrar or his delegate to restrain an elected Managing Committee or a provisional Managing Committee from discharging its lawful administrative functions. The Act provides for supervisory and regulatory powers of the Registrar, but these powers do not extend to suspending the day-to-day decision-making authority of a committee which is in lawful office. Such a restraint, unless specifically provided by statute or ordered by a competent

authority under due process, would amount to interference with the independent functioning of the society's management and would violate the scheme of democratic self-governance embodied in the Act.

7. Hence, considering the absence of statutory authority for the impugned action, and to prevent further interference in the lawful functioning of the Managing Committee, until further orders there shall be ad-interim relief in terms of prayer clause (b).

8. Re-verification of pleadings and annexures is dispensed with.

(AMIT BORKAR, J.)