

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14114 OF 2025

Ambernath Sahakari Samudayik shetki Society Ltd.
Through its Chairman Visvass Mhasske

.. Petitioner

Versus

The State of Maharashtra and ors.

.. Respondents

Mr. Kunal Damle , a/w ***Mr. Rupesh R. Lanjekar***, *Advocates for the Petitioner.*

Mr. P.G. Sawant, *AGP for the Respondent Nos.1 to 2 - State.*

CORAM: AMIT S. JAMSANDEKAR, J.

DATE: OCTOBER 22, 2025

(Vacation Court)

P. C.

1. Heard the Learned Counsel appearing on behalf of the Petitioner and the Learned AGP. Mr. Damle submitted that he has served a copy of the Petition and has given a notice of today's hearing to all the Respondents.

2. By the present Petition, the Petitioner has challenged the impugned orders dated 4th September, 2025 and 8th October, 2025. The order dated 4th September, 2025, is passed by the 2nd Respondent under Section 79(1) of the Maharashtra Cooperative Societies Act, 1960 ("the Societies Act"). The order

dated 8th October, 2025, is passed by the 2nd Respondent under Section 79(2) (b) of the Societies Act, for non-compliance of the order dated 4th September, 2025. Both these orders are the subject matter of challenge.

3. Mr. Damle submitted that both the impugned orders are passed in gross violation of the principles of natural justice and the same are arbitrary. It is submitted that the hearing in respect of the proceedings initiated under Section 79(1) of the Act was kept by the 2nd Respondent on 23rd September, 2025. The Petitioner had intimated the 2nd Respondent well in advance that the Petitioner would not be in a position to attend the hearing on 23rd September 2025 due to the scheduled hearing of Writ Petition No.1762 of 2025 filed by the Petitioner before the Hon'ble High Court. The 2nd Respondent received this intimation, and there is no dispute regarding the same. Even after the Petitioner's request, the 2nd Respondent proceeded with the hearing and subsequently passed the impugned order dated 8th October, 2025.

4. The Petitioner contends that the 3rd Respondent is a Member of the Petitioner Society, who is a defaulter and has persistently made various false and frivolous complaints against the Petitioner Society. The subject matter of the complaints also includes the portion of land allotted to the Society, which

the State Government alleges belongs to it by virtue of a mutation entry made in the name of the State Government. A plot measuring 20 acres is now designated by the State Government for a Medical College by virtue of the mutation entry. It is submitted by the Petitioner that the Writ Petition filed by the Petitioner challenges the Government Resolution dated 23rd February, 2023. This Hon'ble Court heard the Petitioner's Writ Petition on 6th October 2025, and an ad-interim relief came to be granted in favour of the Petitioner. The Court has directed the State Government not to act in any manner on the said Government Resolution. The operative part of the order dated 6th October, 2025 reads as under :-

“3. In view of the above and considering the order of this Court dated 11th January, 2011, we direct the concerned Respondents not to act in any manner which runs counter to the order dated 11th January, 2011. In the event any of the Respondents desire that the said order be modified, they are at liberty to approach the Appropriate Court.”

5. The Learned Counsel for the Petitioner also relied upon the papers and proceedings of LPA No.10 of 2011 filed by the Petitioner Society. By the said LAP, the Petitioner has challenged the resumption of the entire land of 210 Acres. The Learned Counsel for the Petitioner has also invited my attention to the interim order passed on 11th January, 2011, in LPA No.10 of 2011, by which this Court had directed the State Government not to disturb the possession of the Petitioner Society.

6. It is submitted on behalf of the Petitioner that Respondent No.3, has persistently made frivolous complaints against the Petitioner Society with *malafide* intentions. Mr. Damle submitted that apart from the violation of the principles of natural justice, the order passed by the 2nd Respondent is outside the scope and jurisdiction of the 2nd Respondent under Section 79(1) of the Act. According to Mr. Damle the information and the documents sought by the 2nd Respondent are only to help the 3rd Respondent. He submitted that the Petitioner has already provided an explanation and submitted the required documents in reply to the complaints filed by the 3rd Respondent. Mr Damle cited judgment of the Nagpur Bench of this court in ***Aniruddha Subhanrao Deshmukh and ors. Vs. State of Maharashtra and ors.*** (2023) 1 Mah LJ 647, and more particularly on paragraphs Nos.13, 14, 15, and 16. It is submitted that the order passed on 4th September, 2025, and the directions given by the 2nd Respondent to produce the documents at page No.9 of the order, are fishing enquiries and are entirely outside the scope and jurisdiction of the 2nd Respondent under Section 79(1) of the Act.

7. The Learned AGP appearing on behalf of the 1st and 2nd Respondent opposed the application of the Petitioner for ad interim reliefs. He submitted that the order is passed in accordance with the provisions of law. There are many complaints against the Petitioner, and therefore, the information and

documents ordered to be submitted by the 2nd Respondent are justified and are within the scope of the provisions of Section 79(1) of the Act. He submitted that the time be granted to file a detailed reply to oppose the ad interim reliefs.

8. After hearing both parties, I find that the hearing of proceedings was conducted by the 2nd Respondent under Section 79(1) of the Act on 23rd September 2025 without hearing the Petitioner. The Petitioner's request seeking adjournment in the matter, which the 2nd Respondent did not entertain. Further, *Prima facie*, there is substance in the argument of the Petitioner that there was no reason for the 2nd Respondent not to accept the request of the Petitioner to adjourn the hearing, which was scheduled on 23rd September 2025. *Prima facie*, the documents and information sought by the 2nd Respondent by his order dated 4th September 2025 are outside the scope, power and authority of Section 79(1) of the Act. Also, the subject matter of the complaints filed by the 3rd Respondent also includes the subject matters which are pending before the Hon'ble Court in the above-referred Writ Petition and the LPA in which this Hon'ble Court has already protected the Petitioner by way of interim orders.

9. Therefore, there shall be relief in terms of prayer clause (b), which reads as follows :-

b. That during the pendency of the present petition this Hon'ble Court be pleased to stay the execution, effect and implementation of order dated 04.09.2025 and 08.10.2025 passed by the Respondent No.2 which are at "Exh-C" and "Exh-I".

10. The Respondents shall file their respective Replies to the Petition within a period of three weeks from today. A copy of the reply shall be served to the Petitioner on or before 11th November, 2025. Rejoinder, if any, shall be filed by the Petitioner within one week thereafter.

11. Place the matter on board on 28th November 2025, under the caption "for directions", The ad interim relief shall continue to operate up to 30th November 2025.

12. At this stage, the Learned Counsel appearing for the Petitioner sought leave to amend the Petition on the ground that the Petitioner has received the Show Cause Notice under Section 73(c)(a)(3) of the Societies Act for the disqualification of the Committee of the Petitioner-Society. The said Notice

is dated 17th October 2025, and was served on the Petitioner on 21st October 2025. The Petitioner wants to challenge the said Notice because it is in consequence of the orders passed on 4th September, 2025 and 8th October, 2025. The Petitioner sought leave to amend the Petition to add the challenge to the notice dated 17th October 2025. Accordingly, leave is granted to the Petitioner to amend the Petition to challenge the Show Cause Notice under Section 73(c)(a)(3) of the Societies Act dated 17th October 2025, passed by the 2nd Respondent. Amendment shall be carried out within a period of one week from today, and the Petitioner shall serve the amended copy of the Petition to the Respondent within a period of two days thereafter.

13. Liberty is granted to the Petitioner to make an Application for further relief, if the 2nd Respondent takes any further steps or initiates any further action pursuant to the notice dated 17th October, 2025.

14. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR , J.]