

Shabnoor

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

WRIT PETITION NO.11339 OF 2025

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Shree Jagrutti Cooperative Housing
Society Ltd & Anr. ... Petitioners

V/s.

Shree Jagruti CHS Proposed & Ors. ... Respondents

**WITH
INTERIM APPLICATION NO.13401 OF 2025
IN
WRIT PETITION NO.11339 OF 2025**

Triumph Urban Developers Pvt. Ltd. ... Applicant

In the matter between

Shree Jagrutti Cooperative Housing
Society Ltd & Anr. ... Petitioners

V/s.

Shree Jagruti CHS Proposed & Ors. ... Respondents

**WITH
WRIT PETITION NO.10120 OF 2025**

Shree Jagrutti Cooperative Housing
Society Ltd & Anr. ... Petitioners

V/s.

Triumph Urban Developers Pvt. Ltd.
& Ors. ... Respondents

Mr. Karl Tamboly a/w Mr. Nirav Shah, Sharva Patel i/b
Little & Company, for the Petitioners.

Mr. S. L. Babar, AGP with Ms. Savina Crasto, AGP, for
Respondent Nos.2, 3 & 5.

Mr. Anil Shakhare, Sr. Advocate a/w Santosh Mali i/b
Komal Punjabi, for Respondent No. 4 – BMC.

Mr. Girish Godbole, Sr. Advocate with Mr. Bhavik Manek i/b Sharad Wakchoure, for Respondent No.1 in WP/10120/2025 and IA/13401/2025.

Mr. Atul Damle, Sr. Advocate with Mr. Mayur Khandeparkar, i/b, Mr. Pratik Shah, for Respondent No.4 in WP/10120/2025 and Respondent No.1 in WP/11339/2025.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 24, 2025

ORAL JUDGMENT:

1. The petitions arise from proceedings under Section 9 of the Maharashtra Cooperative Societies Act. The record shows that the Registrar issued only a certificate of registration. No reasons were recorded. This omission goes to the root of the matter.

2. For deciding the issue involved in these petitions, it is necessary to place on record the statutory scheme that governs the power of registration. The relevant provisions are Section 9, Section 154B 2, and Section 154B 3 of the Maharashtra Cooperative Societies Act. These provisions must be set out because they show the width of the Registrar's duty, the conditions to be verified, and the nature of the satisfaction required before a society can be registered. They form the legal foundation on which the question before the Court must be examined.

“9. Registration.—(1) If the Registrar is satisfied that a proposed society has complied with the provisions of this Act and the rules, 108[or any other law for the time being in force, or policy directive's issued by the State Government under Section 4, and that its proposed by-laws are not contrary to this Act or to the rules, he 109[shall, within two

months, from the date of receipt of the application register the society and its by-laws.

(2) Where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid, the Registrar shall, within a period of fifteen days from the date of expiration of that period refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who or which as the case may be, shall dispose of the application within two months from the date of its receipt and on the failure of such higher officer or the State Government, as the case may be, to dispose of the application within that period, the society and its bye-laws shall be deemed to have been registered and thereafter the Registrar shall issue a certificate of registration under his seal and signature within a period of fifteen days.

(3) Where the Registrar refuses to register a proposed society, he shall forthwith communicate his decision, with the reasons therefor, to the person making the application and if there be more than one to the person who has signed first thereon.

(4) The Registrar shall maintain a register of all societies registered, or deemed to be registered, under this Act.

154B-2. Registration of co-operative societies.— (1) No tenant co-partnership housing society shall be registered under this Act, unless it consists of at least five persons (each of such persons being a Member of different family) or at least fifty one per cent. (of total number of flats as per sanctioned plan) flat purchasers or intending Members and who are qualified to become Member under this Act, whichever is higher, joins the registration proposal of housing society to be registered.

(2) No tenant ownership housing society shall be registered under this Act, unless it consists of at least five persons (each of such persons being a Member of different family) or at least fifty-one per cent. (of total number of plots as per proposed or sanctioned lay-out) plot purchasers and who are qualified to become Member under this Act, whichever is higher, joins the registration proposal of housing society to be registered.

(3) No Association of society shall be registered unless it has at least five housing societies as its Members.

(4) No Co-operative Housing Association shall be registered unless it has at least two housing societies or other legal bodies as its Members.

(5) Nothing in this section shall be deemed to affect the registration of any society made before the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 2019 (Mah. XXIII of 2019).

(6) The word “limited” or “unlimited” shall be the last word in the name of every society with limited or unlimited liability, as the case may be, which is registered or deemed to be registered under this Act. Explanation.— For the purpose of this section, the expression “Member of a family” means a wife, husband, father, mother, dependent son or unmarried dependent daughter.

154B-3. Application for reservation of name and permission for opening bank account.— (1) For the purpose of granting permission to open an account in the bank and reservation of name of the proposed tenant co-partnership housing society or premises society, an application shall be made to the Registrar in the prescribed format and shall be accompanied with the copies of commencement certificate, or the building completion certificate given by the Architect and the copy of resolution of promoters electing chief

promoter and authorizing him to make such application and on receipt of such application, the Registrar shall dispose of it within a period of thirty days from the date of its receipt.

(2) For the purpose of granting permission to open an account in the bank and reservation of name of the proposed tenant ownership housing society an application shall be made to the Registrar in the prescribed format and shall be accompanied with the copy of tentative lay-out plan certified by Architect or sanctioned lay-out plan and copy of resolution of promoters electing chief promoter and authorizing him to make such application and on receipt of such application, the Registrar shall decide it within a period of thirty days from the date of its receipt.

(3) For the purpose of registration of a housing society, an application shall be made to the Registrar in the prescribed format and shall be accompanied with documents as prescribed alongwith such fees as may be prescribed :

Provided that, the application shall be signed by the minimum number of plot or flat purchasers or owners or intending Members as provided under foregoing section :

Provided further that, for the registration of a Association of society or co-operative housing association, such application shall be signed by minimum number of authorized office bearers of different societies or legal bodies, as the case may be, as provided under foregoing section.”

3. Section 9 gives the Registrar the power and the duty to decide whether a proposed society should be registered. This decision affects the legal rights of the promoters as well as the rights of other persons who may be affected by the creation of a new society. The section requires the Registrar to be satisfied that the proposed society has complied with the Act, the Rules, and any

policy directives issued under Section 4. This satisfaction must arise from the material placed before the Registrar. It must be based on credible evidence. Such satisfaction cannot be presumed or implied. It has to be recorded by way of reasons.

4. A reasoned order is necessary for several clear and practical reasons. First, the Act provides an appeal against the order of registration or refusal. An appellate authority cannot examine whether the Registrar acted lawfully unless the Registrar explains the basis of his decision. A mere certificate of registration does not disclose which documents were examined, which conditions were found to be satisfied, or why the proposal was held to be in line with the State policy for the orderly development of the cooperative movement. Without reasons, the appellate remedy becomes meaningless.

5. Second, the scheme of Section 9 itself shows that the Registrar has to apply his mind to specific statutory conditions. He must check whether the proposed society's by-laws are lawful. He must check whether the promoters have satisfied the numerical and documentary requirements. He must check whether the society will function without harming the cooperative structure in that area. These duties arise directly from the language of Section 9 and the connected provisions. Each of these steps requires a finding. Findings must be recorded. The Registrar cannot discharge these duties by issuing a certificate alone.

6. The time limits prescribed in Sections 9(1) and 9(2) also indicate that the Legislature expects a conscious and reasoned

decision. The Registrar must act within a fixed period. If he fails, the matter must be sent to the higher authority. This structure shows that the decision of registration is not a routine or clerical exercise. It is a decision of importance. Any decision of such nature must record reasons so that all concerned can see how the statutory standards have been applied.

7. The provision in sub section (3) further strengthens this position. When the Registrar refuses to register a society, he must communicate his reasons. The law does not permit unreasoned refusal. The same standard applies to an order of registration. If the Registrar must give reasons for refusal, fairness demands that he must also give reasons for grant. Otherwise, the parties affected by the grant cannot understand why the decision has been taken. The principles of natural justice require transparency on both sides.

8. This duty becomes stricter in housing societies because the Legislature has enacted Section 154B-2 and Section 154B-3. These provisions lay down clear, measurable requirements. They also require the Registrar to decide applications within a fixed time. When the law sets specific conditions, the Registrar cannot grant registration by issuing a bare certificate. The Registrar must record reasons to show that each statutory requirement is satisfied.

9. Section 154B-2 requires proof of minimum membership. It requires that the members belong to different families. It also demands that at least fifty one percent of plot or flat purchasers have joined the registration proposal, depending on the nature of

the society. These facts cannot be assumed. They must be verified from documents. The Registrar must check agreements, sanctioned plans, and membership lists. Only then can the Registrar say that the legal threshold has been crossed. This verification is not possible without examining credible evidence. A reasoned order must state how the Registrar reached satisfaction on these points.

10. Section 154B-3 introduces a two stage process. First, the Registrar must grant permission to open a bank account and reserve the name of the proposed housing society. Second, after the society completes the required steps, it must submit an application for registration with the prescribed documents. In both stages, the Registrar must act on the basis of evidence. The Registrar must examine commencement certificates, completion certificates, architect's layout plans, and resolutions of promoters. These documents are meant to show that the project is at a stage fit for forming a society. The Registrar cannot ignore these requirements or dispose of the application mechanically.

11. When the statute expects the Registrar to examine documents and reach a conclusion on facts, the law treats the decision as quasi-judicial. A quasi-judicial decision must contain reasons. Reasons show that the Registrar has applied the correct tests. They show that the Registrar has not acted arbitrarily. Without reasons, neither the promoters nor any objector can understand how the Registrar reached the conclusion. If the order is appealed, the appellate authority will have no material to decide whether the Registrar followed the law. The appellate remedy becomes ineffective. This is contrary to the legislative intent.

12. Issuing only a certificate of registration without reasons defeats the purpose of Section 9 and the special provisions for housing societies. It also violates the principles of natural justice. Persons whose rights are affected have a right to know why the authority has taken the decision. They have a right to challenge it. They cannot do so unless the order states the grounds on which registration has been granted. Recording reasons also ensures that societies are not registered in violation of the statutory limits, such as inadequate membership, absence of proper layout plans, or incomplete construction.

13. The scheme of Sections 154B-2 and 154B-3 shows that the Legislature expects strict scrutiny at the entry point itself. This is because housing societies regulate common property, manage essential services, and bind all purchasers into a collective legal framework. A society formed without following the law can cause serious prejudice to flat purchasers and can disturb the cooperative system governing housing. This makes the duty to give reasons even more important.

14. A reasoned order is necessary when the authority exercises power under Section 9 of the Maharashtra Co-operative Societies Act. The Act creates rights and obligations at the stage of registration. It also provides an appeal against an order of registration or refusal of registration. When a statute grants a right of appeal, the authority must state reasons. Without reasons, the appellate authority cannot examine whether the conclusions reached by the registering authority are correct. Reasons form the link between the facts placed on record and the final decision.

They show how the authority applied the statutory requirements to the material before it.

15. Section 9 expects the authority to verify whether the proposed society meets the policy directives framed under Section 4. This is not a routine exercise. It requires scrutiny of documents, verification of financial capacity, and examination of whether the new society would harm the existing co-operative structure. These questions can be decided only after the authority gathers credible material. The authority must then record why the materials satisfy or do not satisfy the requirements of law. A simple issuance of a registration certificate without explaining the basis of satisfaction defeats the entire statutory scheme.

16. When the authority passes an order without reasons, it becomes impossible to test whether the authority acted as the law demands. If the order is challenged, the appellate authority will have no basis to decide whether the registering authority considered the correct facts. The appellate authority will also be unable to see whether the registering authority applied the Government's policy directives or assessed the economic soundness of the proposed society. The Act does not permit such opacity. It expects a transparent and fair decision that can be reviewed on appeal.

17. The principles of natural justice require that a party affected by a decision must know why the decision has been taken. Registration of a society affects the rights of those seeking registration and may also affect existing societies in the area.

When an order is passed without reasons, the parties do not know which facts were accepted, which were rejected, and on what grounds the authority proceeded. This denies them a meaningful opportunity to challenge the decision. Such a process violates fairness and undermines confidence in the co-operative structure.

18. A reasoned order ensures that the authority has applied its mind. It prevents arbitrary exercise of power. It compels the authority to examine the material placed before it and to explain why the proposed society satisfies the statutory conditions. It also assures the parties that the decision follows the law and not personal preference. The duty to give reasons is not a mere formality. It is essential for maintaining the integrity of the registration process.

19. In proceedings under Section 9, therefore, the registering authority must issue a clear and reasoned order. It must show the facts considered, the application of the policy directives under Section 4, and the conclusion reached based on credible evidence. A bare certificate of registration without these steps fails to meet the standard expected by the Act. It deprives the parties of the protection of natural justice and renders the appellate remedy ineffective.

20. For these reasons, any order under Section 9 in the case of housing societies must be a reasoned order. It must show how the Registrar verified the minimum membership, the family structure, the completion status of the building, the layout plan, and the resolutions of promoters. It must show how the Registrar satisfied

the requirements of Section 154B-2 and Section 154B-3. Only such an order can be upheld in law.

21. On examining the record, it is clear that the so called order of registration contains no reasons. Only a certificate of registration has been issued. There is no discussion of the material produced by the applicant. There is no finding on whether the proposed society satisfies the requirements of Section 154B-2 and Section 154B-3. Only such an order can be upheld in law. Section 9 requires the authority to form an opinion on these matters after due verification. An unreasoned certificate does not satisfy this requirement. It renders the order incomplete in the eyes of law.

22. The appellate authority has set aside the registration mainly because of this defect. This approach is supported by credible legal principles. Without reasons, the appellate forum has no material to test the legality of the decision. However, if the appellate authority finds that the original order suffers from absence of reasons, the proper course is not to decide the merits itself unless the record is complete. The proper course is to send the matter back to the original authority for a fresh decision. This maintains fairness to all parties and preserves the statutory scheme.

23. Keeping these principles in mind, justice would be served if both orders are set aside. The matter must go back to the registering authority to decide the question of registration afresh. All parties who may be affected by the decision must be given an opportunity to present their case. They must be allowed to place documents and submissions so that the authority can examine the

claim on the basis of credible evidence. The authority must then deliver a clear and reasoned order under Section 9 on the requirements of Section 154B-2 and Section 154B-3 .

24. Hence, following order:

(i) The order dated 13 May 2025 passed by the Appellate Authority in Appeal Nos. 104 and 105 of 2025 by the Divisional Joint Registrar of Cooperative Societies, as well as the order of registration dated 22 January 2025 passed by respondent No. 3, are quashed and set aside.

(ii) The proceedings are remanded back to respondent No.3.

(iii) Parties shall appear before respondent No.3 on **1 December 2025 at 10:30 a.m.**

(iv) Respondent No. 3 shall grant an opportunity of hearing to all parties whose legal rights may be affected by the order of registration or non-registration.

25. With this, the writ petitions stand disposed of. No order as to costs.

26. All pending interim applications, if any, are stand disposed of.

(AMIT BORKAR, J.)