NISHA SANDEEP CHITNIS

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13644 OF 2026

Amitkumar Khemchandbhai Patel
Age 49 years, Occu: Business
R/at Plot no. 32, Ish Krupa Bunglow
Datta Nagar, Peth Road
Panchvati, Nashik – 422003 ...Petitioner

Versus

1. The State Co-operative Election Authority
Maharashtra State, Pune.

2. Sanjiv Shinde
Election Returning Officer
Kutcchi Lohana Co-op. Housing Society Ltd.
Panchvati, Nashik
having office at Dy. Registrar
Co-op. Society, Nashik Taluka, Nashik
Sankul – 4, 1st floor, Panchvati, Nashik – 422003.

3. P. R. Shimpi
Administrator of Kutcchi Lohana
Co-op. Housing Society, Nashik
having office at Dy. Registrar
Co-op. Society, Nashik Taluka, Nashik
Sankul – 4, 1st floor, Panchvati, Nashik – 422003.

4. Deputy Registrar, Co-op. Society
Nashik Taluka, Nashik
Office at Sankul-4, 1st floor
Peth Road, Panchvati
Nashik – 422 003.
through State of Maharashtra.

5. Kutcchi Lohana Co-op. Housing
Society, at Jalaram Nagar, Dindori road
Panchvati, Nashik – 422 003. ...Respondents

WITH
WRIT PETITION NO.13649 OF 2026

M/s. Brahmani Infra
A partnership firm, through
it's partner and authorized signatory
Hetal Khemchandbhai Patel
having it's registered office at
Flat no. E-1/502, Lake Town Co-op.
Housing Society, Bibewadi, Katraj
Pune – 411 046. ...Petitioner

Versus

1. The State Co-operative Election Authority
Maharashtra State, Pune.

2. Sanjiv Shinde
Election Returning Officer
Kutcchi Lohana Co-op. Housing Society Ltd.
Panchvati, Nashik
having office at Dy. Registrar
Co-op. Society, Nashik Taluka, Nashik
Sankul – 4, 1st floor, Panchvati, Nashik – 422003.

3. P. R. Shimpi
Administrator of Kutcchi Lohana
Co-op. Housing Society, Nashik
having office at Dy. Registrar
Co-op. Society, Nashik Taluka, Nashik
Sankul – 4, 1st floor, Panchvati, Nashik – 422003.

4. Deputy Registrar, Co-op. Society
Nashik Taluka, Nashik
Office at Sankul-4, 1st floor
Peth Road, Panchvati
Nashik – 422 003.
through State of Maharashtra.

5. Kutcchi Lohana Co-op. Housing
Society, at Jalaram Nagar, Dindori road
Panchvati, Nashik – 422 003. ...Respondents

Mr. Chandrakant Yadav for the Petitioners in both the Petitions.

Mr. Abhijeet Lende with Mr. Karan Lende for the Respondent No.5.

Mr. Vaibhav Charalwar, 'B' Panel Counsel for the Respondent-State in WP/13644/2026.

Mr. Karan S. Thorat, 'B' Panel Counsel with Mr. M. M. Pable, A.G.P. for the Respondent-State in WP/13649/2026.

Respondent No.2-Sanjiv Shinde, Election Returning Officer, is present in Court.

Respondent No.3-P. R. Shimpi, Administrator, is present in Court.

CORAM: BHARATI DANGRE &
ASHISH S. CHAVAN, JJ.

DATE : 12th OCTOBER 2026

ORAL JUDGMENT (Per Bharati Dangre, J.) :

1. The two writ petitions before us revolve around the issue of membership of the Kutcchi Lohana Co-operative Housing Society,

Nashik.

Writ Petition No. 13644 of 2026 is filed by an individual, Amitkumar Khemchandbhai Patel, whereas Writ Petition No. 13649 of 2026 is filed by M/s. Brahmani Infra, a partnership firm, through its partner, Hetal Khemchandbhai Patel. The grievance in both petitions is that, despite having been admitted to the membership of the Society, the petitioners do not find their names in the final voters' list for the ensuing election to the Managing Committee of the Society for the term 2026–2027 to 2030–2031.

2. We have heard the learned counsel for the petitioners in both writ petitions, as well as the learned Government Advocates representing the State. The Society i.e. Kutcchi Lohana Co-op. Housing Society, which is impleaded as respondent No.5, is represented by its learned counsel, Mr. Abhijeet Lende. It is, however, pertinent to note that the subject Society is presently under the control of an Administrator. Since the petitions are being heard finally by consent, we issue Rule. Learned counsel appearing for the

respondents waive notice on behalf of the respective respondents.

The common grievance raised in these petitions is that Amitkumar Patel purchased Flat No. 8-A from the erstwhile owner, Varun Vitthal @ Vitthalkumar Thakkar, who was a member of the Society. Upon completion of the necessary formalities, including obtaining a No Objection Certificate, the flat was purchased for valuable consideration, and the conveyance was registered on 25th June 2024.

Thereafter, Amitkumar Patel applied for membership of the Society in respect of the said flat and paid the requisite transfer premium, entrance fees, transfer fees, etc. His application was accepted at the meeting held on 30th June 2025. Upon his admission to membership, a share certificate in respect of Flat No. 8-A was issued in his name.

As regards the other petitioner, namely, M/s. Brahmani Infra, a partnership firm, it purchased seven flats from individual members, and prior to securing the registration, the No Objection Certificate of the Society was obtained, and the transfers were duly

reflected in the registered documents executed on different dates.

Pursuant to the No Objection Certificates issued by the Society, the partnership firm applied for membership and paid the requisite transfer fees, membership fees, etc. Its applications were also accepted at the meeting held on 30th June 2025, and the firm was admitted to membership of the Society. Six separate share certificates in respect of Flat Nos. 3-A, 6-A, 3-B, 4-B, 6-B and 8-B were issued in the name of the partnership firm, barring Flat No.1-A where the share certificate was issued in the name of Amitkumar Khemchandbhai Patel, the other petitioner.

3. The grievance of the petitioners is that, once the share certificates have been transferred in the name of the individual petitioner and the partnership firm, they cannot be deprived of their right to exercise the vote in the upcoming elections and we find sufficient justification in the demand.

As regards the second petition, when the name of the petitioner was not included in the provisional voters' list, an objection was raised, and comments were called for from the Administrator. The Election Officer rejected the objection, observing that there was substance in the submissions of the Administrator.

4. With the able assistance of the Counsel representing the parties, we have perused the said rejection. Though there is no reasoning set out by the Election Officer, since it is based on the reporting of the Administrator, we have perused the said column, where it is recorded that one Vitthal Liladhar Thakkar was the erstwhile Chairman, and he was also the owner of Flat No.8-A. On 5th February 2023, he produced a Gift Deed executed in favor of his son, Varun Vitthal Thakkar, and the Committee unanimously granted its approval to Resolution No.2 to that effect. Under Resolution No.3, he resigned from the post of Chairman, and in that meeting itself, his son, Varun Vitthal Thakkar, was elected as Chairman.

Though the Administrator expressed that they should have conducted an election and appointed someone else as a Chairman, the fact remains, and this is what the Administrator has specifically noted, that in the meeting approval was granted to the appointment of Varun Vitthal Thakkar. It is worth to note that no challenge was ever raised, to his election. In fact, the bye laws of the Society, which received the approval of the Deputy Registrar of Co-operative Society, also bear a signature reflecting that he was recognized as the Chairman of the Kutcchi Lohana Co-operative Housing Society.

The Administrator has further recorded that Varun Vitthal Thakkar sold his flat to Amitkumar Patel, and facilitated in transfer of seven other flats in favor of M/s. Brahmani Infra, the partnership firm. It is also stated that the transfer was illegal, but when we perused the bye laws, *prima facie,* we do not find any illegality.

5. In any case, from the submission before us and from the reading of the report of the Administrator forwarded to the Election Officer, it is evidently clear that there is some discord between the

members of the Society. We are informed that the Society has 16 members and we can apparently see that since now there are 8 flats which are owned by the petitioners, the other members have some reason to object.

In any case, in the democratic functioning of the Co-operative society, every member has an equal right to raise a voice, but if the petitioners are admitted as members and if the share certificates are transferred in their favour, it is only by lawful means that their admission to the membership of the Society can be challenged, and not in any other way.

We are informed that no proceedings have been initiated by any of the members, raising a challenge to the appointment of Varun Vitthal Thakkar as a Chairman, or thereafter transferring the share certificate in favor of the petitioners who have for lawful consideration purchased the flats in the Society, and not only that, they have been admitted to the membership of the Society. Some of the members may like it or do not like it, but the fact remains that if the share certificates are transferred in their favour, they are entitled to be

included in the voters list and entitled to vote. Since we are informed that the Election program is declared and we are conscious of the fact that there can be no interference in the election process once it is initiated, but since we are of the view that the petitioners have been wrongfully denied their inclusion in the voters list, and in no way we are stalling the elections which are scheduled on 6th November 2026, we direct the Returning Officer to include the name of the petitioners in the voters list and permit them to cast their vote in accordance with Section 27 of the Maharashtra Co-operative Societies Act, 1960 (MCS Act).

We make it clear that we have in no way interfered with the election process, but have only advanced the process of election, which shall now be conducted in terms of the election program, which is declared on 9th October 2026.

Since the judgment is passed in the presence of the Returning Officer as well as the Administrator, the necessary corrections in the voters list shall be carried out within 24 hours from today.

With the above directions, both the writ petitions stand disposed of. Rule is made absolute in the aforesaid terms.

ASHISH S. CHAVAN, J. *BHARATI DANGRE, J.*