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

WRIT PETITION NO.16027 OF 2024

Anil Jayavant Jagtap

... Petitioner

V/s.

Dakkhan Patbandhare Mandal Coop.
Housing Society & Ors.

... Respondents

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Mr. Shadab Jan with Mr. Nikhil Rajani i/by M/s. V.
Deshpande & Co., for the petitioner.

Mr. Rajesh J. Ghat with Akhil Rao for respondent No.2.

Mr. Viraj Parekh with Mr. Jayesh Mestry, and Mrs.
Farheen Mustafa i/by Jayesh Mestry for respondent
No.4.

Mr. O.A. Chandurkar, Additional G.P. with Smt. G.R.
Raghuwanshi, AGP for respondent Nos.5 and 6-State.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 5, 2026

P.C.:

1. The dispute in this writ petition arises from proceedings started before the Registrar by invoking Section 73-CA read with Section 154B-23 of the Maharashtra Cooperative Societies Act, 1960. The petitioner's grievance is narrow and specific. It relates to Bye-law 117(f) of the housing society. This bye-law restricts a person from contesting or continuing as a member of the managing committee if, without prior written permission of the society, he has sublet his flat to another person or has sold his share and interest in the society.

2. The petitioner contends that such restriction has been wrongly examined by the Registrar, though the bye-law itself governs eligibility at a particular stage of the election process.

3. Section 154B-23 empowers the Registrar to consider disqualification of a person who has already become a member of the managing committee. This provision operates with reference to the date of election and the period thereafter. In contrast, Bye-law 117(f) operates at an earlier stage. It comes into play on the date of scrutiny of nomination papers. On that date, the Returning Officer examines whether the candidate is eligible to contest at all. Therefore, the bar under Bye-law 117(f) is a pre-election bar. It relates to the right to contest the election and not to a disqualification incurred after election. Such a dispute, by its very nature, is a pre-election dispute.

4. The Act draws a clear line between disputes arising before the election and disputes arising after a person becomes a committee member. The Registrar's power under Section 154B-23 is limited to examining disqualification of a sitting committee member. It does not extend to deciding whether a person was eligible to contest the election in the first place. Since Bye-law 117(f) creates a disqualification at the nomination stage, the proper forum to examine such issue is the Cooperative Court under Section 91 of the MCS Act. That forum alone has jurisdiction to decide election disputes relating to eligibility and validity of nominations.

5. For these reasons, this Court does not find it appropriate to examine the merits of the petitioner's grievance in the present writ petition. All questions raised by the petitioner, including the interpretation and applicability of Bye-law 117(f), are kept open. The petitioner is at liberty to raise those issues in appropriate election proceedings before the Cooperative Court under Section 91 of the MCS Act. With this clarification, the writ petition is disposed of. No order as to costs.

6. All contentions of all the parties are kept open.

(AMIT BORKAR, J.)