MPBalekar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14114 OF 2025

Ambernath Sahakari Samudayik Shetki Soc. Ltd, Ambernath Eash, Thane … Petitioner

V/s.

The State of Maharashtra and Ors. … Respondents

Mr. Kunal Damle along with Mr. Rupesh R. Lanjekar for petitioner.

Mr. P.G. Sawant, AGP for the State – Respondent Nos. 1 & 2.

Mr. Dattaram Dindikar for Respondent No.3.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 5, 2026

P.C.:

1. The petitioner has questioned the legality of the order dated 8 October 2025 passed by respondent No.2 in exercise of powers under Section 79(1) of the Maharashtra Co-operative Societies Act, 1960. The petitioner has also challenged the notice issued to the society under Section 73CA of the said Act, which has been issued as a consequential step pursuant to the impugned order.

2. Respondent No.3 had moved an application before respondent No.2 under Section 79(1) of the MCS Act seeking supply of various documents, as reflected from the impugned order. By order dated 4 September 2025, respondent No.2 directed the petitioner society to furnish documents mentioned at serial numbers 1 to 17 in the said order. On account of alleged non-compliance of this direction, a show cause notice under Section 73CA of the MCS Act came to be issued. The petitioner has, therefore, assailed both the order passed under Section 79(1) and the consequential show cause notice under Section 73CA.

3. The grievance of the petitioner is founded on the judgment of this Court in *Aniruddha Subhanrao Deshmukh vs State of Maharashtra and others, reported in 2023(1) Mh.L.J.* It is contended that the powers conferred upon the Registrar under Section 79 are confined only to the situations expressly contemplated under Section 79(1). According to the petitioner, the said provision does not authorise the Registrar to issue directions to furnish documents to a member. It is urged that such power is traceable only to Section 32 of the MCS Act, which can be exercised only upon fulfillment of the statutory conditions prescribed therein. On this premise, it is contended that the impugned order passed under Section 79(1) travels beyond the scope of the powers vested in the Registrar.

4. On the other hand, the learned Assistant Government Pleader and the learned Advocate appearing for respondent No.3 have supported the impugned order. It is contended that Section 79(1) empowers the Registrar to enforce compliance with the provisions of the Act, the Rules, and the bye-laws. In exercise of such supervisory and enforcement powers, the Registrar is competent to direct the society to furnish documents sought by a member for ensuring due compliance with statutory obligations.

5. In order to appreciate the rival submissions and to adjudicate the controversy between the parties, it becomes necessary to advert to the scheme and scope of Section 79(1) and (2) of the MCS Act, which reads as under :-

> *"79 (1) The Registrar may direct any society or class of societies, to keep proper books of accounts 4 [in such form, including electronic or any other form, as may be prescribed] with respect to all sums of money received and expended by the society, and the matters in respect of which the receipt and expenditure take place, all sales and purchases of goods by the society, and the assets and liabilities of the society, and to furnish such statements and returns and to produce such records as he may require from time to time ; and the officer or officers of the society shall be bound to comply with his order within the period specified therein.] 5*
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> *[(1-1A)] The Registrar may direct any society or class of societies to take action to comply with the provisions of this Act, rules made thereunder, by-laws of the society or any order passed by the Registrar under this Act; and the officer or officers of the society shall be bound to comply with order within the period specified therein.*
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> *(1A) Every society shall file returns within six months of the close of every financial year to which such accounts relate, to the Registrar or to the person authorised by him. The returns shall contain the following matters, namely :—*
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> *(a) annual report of its activities ;*
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> *(b) its audited statement of accounts ; (*
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> *(c) plans for disposal of surplus funds as approved by the general body of the society ;*
>
> *(d) list of amendments to the by-laws of the society, if any ;*
>
> *(e) declaration regarding date of holding*

of its general body meeting and conduct of elections when due ;

(f) any other information required by the Registrar in pursuance of any of the provisions of this Act.

(1B) Every society shall also file a return regarding the name of the auditor or auditing firm from a panel approved by a State Government in this behalf, appointed in the general body meeting together with his written consent, within a period of one month from the date of annual general body meeting.]

(2) Where any society is required to take any action 1 [including filing of returns] under this Act, the rules or the bye-laws, or to comply with an order made under the 2 [foregoing sub-sections] and such action is not taken—

(a) within the time provided in this Act, the rules or the bye-laws, or the order, as the case may, or

(b) where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by notice in writing,

the Registrar may himself, or through a person authorised by him, take such action, at the expense of the society ; and such expense shall be recoverable from the society as if it were an arrear of land revenue. "

6. Section 79(1) empowers the Registrar to direct societies to maintain proper books of accounts, to furnish statements and returns, and to produce records as may be required from time to time. Sub-section (1A) casts an obligation on societies to file prescribed returns within the stipulated period, containing specified information, including audited accounts and other statutory disclosures. Sub-section (1B) further mandates filing of details regarding appointment of auditors. Sub-section (2) provides that where a society fails to take action required under the Act, the Rules, the bye-laws, or an order passed under the preceding sub-sections, the Registrar is empowered to take such action himself or through an authorised person at the cost of the society, with recovery of expenses as arrears of land revenue.

7. This Court in the case of *Aniruddha Subhanrao Deshmukh Vs. State of Maharashtra and Ors.* has considered the scheme of Section 79 (1) in paragraph No. 14 of the said judgment.

8. On the facts placed on record, the grievance raised by respondent No.3 is essentially a grievance relating to supply of documents. The Act makes a clear provision for such a situation under Section 32 of the MCS Act. However, the power under Section 32 is not automatic. It can be exercised only when the statutory requirements of that provision are satisfied. Only on fulfillment of those conditions does a member acquire a right to demand the documents referred to in Section 32.

9. There is a clear and material distinction between the power under Section 32 and the power under Section 79(1). Section 32 specifically deals with a member's right to inspect and obtain documents, subject to conditions laid down by the statute. Section 79(1), on the other hand, confers supervisory and regulatory power on the Registrar to ensure that societies maintain proper records and comply with the Act, the Rules, and the bye-laws. The scope, purpose, and operation of these two provisions are different. They function in separate fields and cannot be used interchangeably.

10. In the present case, the record does not show that the statutory conditions required for invoking Section 32 were examined or satisfied. Instead, directions were issued under Section 79(1) to furnish documents to a member. Such an approach is not supported by the scheme of the Act. When Topics related to supply of documents to a member are specifically governed by Section 32, the Registrar must act within that provision and not by extending the scope of Section 79(1).

11. In these circumstances, the proper course available to respondent No.3 was to file an appropriate application under Section 32 of the MCS Act. Upon such application, and after examining whether the conditions of Section 32 are fulfilled, the Registrar would be competent to issue necessary directions to the society in accordance with law.

12. Accordingly, while allowing the petition, the right of respondent No.3 to seek documents under Section 32 of the MCS Act is kept expressly open.

13. The Rule is made absolute in terms of prayer clause (a).

14. This order shall not prevent respondent No.3 from filing a proper application under Section 32, and if such application is filed, respondent No.2 shall decide the same strictly in accordance with law.

15. The writ petition stands disposed of.

(AMIT BORKAR, J.)