

MPBalekar

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

WRIT PETITION NO. 15621 OF 2025

Vinod Patrikar and Ors. ... Petitioners

V/s.

Divisional Joint Registrar, Co-
Op. Societies , Mumbai Div. and
Ors. ... Respondents

Aditya Desai along with Kailash Rathod for the
petitioners.

M.S. Srivastava, AGP for the State – respondent Nos. 1
& 2.

Sujeet Kurup for respondent No. 6.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 6, 2026

P.C.:

1. The members of the Managing Committee of the housing society have challenged the order passed by the Registrar under Section 75(5) of the Maharashtra Co operative Societies Act, 1960. By that order, the Registrar has disqualified them for a period of five years. The main grievance of the petitioners is clear. They say that the agenda of the Annual General Meeting did not contain the issues mentioned in the show cause notice. According to them, when the agenda itself did not include those matters, the Registrar could not have held them guilty on that basis.

2. On examining the impugned order, it becomes evident that the authority has failed to consider important material on record.

The minutes of the Annual General Body Meeting were available, but the authority has not discussed or analysed them. These minutes were relevant because they would show what was actually placed before the general body and what decisions were taken. Further, the authority has not applied the parameters laid down by this Court in the case of *Kailash Maheshwari and others versus State of Maharashtra in Writ Petition No. 10587 of 2025 decided on 25 September 2025*. That judgment lays down clear guidelines on how powers under Section 75(5) are to be exercised and what factors must be examined before disqualifying elected members. The impugned order is silent on these aspects.

3. When such material issues are not examined, the decision making process becomes incomplete. A serious consequence like disqualification for five years cannot rest on an order which does not consider relevant documents and binding judicial principles. In the absence of proper adjudication on these material aspects, the impugned order cannot be sustained in law. Therefore, the order dated 18 October 2023 deserves to be quashed and set aside.

4. Since the matter requires fresh consideration, the proceedings are remitted back to the Deputy Registrar, Co operative Societies, K East Division, Mumbai. The authority shall decide the matter afresh after examining all relevant material.

5. The parties shall remain present before the Deputy Registrar on 12 January 2026 at 10.30 a.m. The Registrar shall give a fair opportunity of hearing to both sides. Thereafter, the Registrar shall adjudicate the issue strictly in accordance with law and by

applying the parameters laid down by this Court in the case of *Kailash Maheshwari and others* .

6. The order passed under Section 77A is only a consequential order arising out of the order passed under Section 75(5). Once the main order under Section 75(5) is set aside, the consequential order under Section 77A cannot independently survive and therefore stands set aside.

7. At this stage, it is not necessary to examine the order passed under Section 78A. That order is already the subject matter of a statutory appeal. The Appellate Authority shall decide that appeal on its own merits, independently and in accordance with law. This Court has not expressed any opinion on the legality or validity of the order under Section 78A.

8. The writ petition stands disposed of.

(AMIT BORKAR, J.)