

MPBalekar

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

WRIT PETITION NO. 15644 OF 2025

Rajitta Hemwani and Anr. ... Petitioner
V/s.
The State of Maharashtra and Ors. ... Respondent

Mr. Harish Pawar a/w Vaishali B. for the petitioner.

Mr. Dhavan Shah for respondent Nos. 6 to 9.

Mrs. Mamta Shrivastva, AGP, for the State –
Respondent Nos. 1 to 3.

CORAM : AMIT BORKAR, J.

DATED : APRIL 28, 2026

P.C.:

1. Rule is made returnable forthwith.
2. The challenge in present writ petition is arising from one order passed by Deputy Registrar, whereby petitioner is disqualified for period of five years from continuing as member of managing committee of respondent No.10 society.
3. It is to be noted that such disqualification carries civil effect and also stigma upon person who is otherwise elected representative of society. Therefore, such order cannot be passed in routine manner. The authority exercising such power is expected to act with due care, proper application of mind, and after giving fair opportunity.
4. In present case, petitioner is saying that this order is not

supported by proper basis in law. When such contention is raised, Court is required to examine not only the correctness of final order but also the process by which such conclusion is reached.

5. On careful reading of show cause notice dated 25 April 2022, one important aspect becomes visible. The notice is issued mainly to managing committee members who were holding office during period from 2009 to 2020. The last paragraph of said notice clearly calls upon those members to explain why action should not be taken for breaches mentioned therein. Thus, scope of notice is confined to acts and omissions during that particular time period. However, the final order passed under Section 75(5) of the Maharashtra Co-operative Societies Act, 1960 appears to travel beyond this scope. It is passed against present petitioners, who admittedly assumed charge after year 2020. This creates serious difficulty. Because a person cannot be asked to answer for acts which are not attributed to him in notice. The inquiry report also supports this position, as it shows that investigation was mainly about conduct of earlier committee functioning between 2009 and 2020. Therefore, there is mismatch between notice, inquiry, and final order. If notice was limited to earlier committee, then extending consequences to subsequent committee members, without specific allegations, appears improper and contrary to basic requirement of fairness.

6. It further appears that after passing of order under Section 75(5), authority has also proceeded under Section 77A of the Act and appointed an authorised officer. This indicates that entire management of society was taken over in continuation of earlier

findings. The petitioners have challenged both these actions by filing revision before Revisional Authority. The Revisional Authority, by common judgment, has confirmed both orders. However, while confirming, it does not appear that detailed distinction was made between role of earlier committee and present petitioners. The confirmation seems to be on general acceptance of inquiry findings, without separately examining whether present petitioners could be made liable on basis of those findings.

7. At the time of hearing, learned Advocate for petitioners, on instructions, has restricted his challenge only to that part of order which disqualifies petitioners for five years under Section 75(5) of the Act. He is not pressing other aspects such as appointment of authorised officer under Section 77A. Therefore, Court is now concerned only with question whether disqualification of petitioners is sustainable in law.

8. Considering entire material, it appears that show cause notice itself was confined to managing committee members of period 2009 to 2020. The petitioners admittedly came into picture after 2020. There is no clear allegation in notice attributing specific misconduct to them. In absence of such allegation, petitioners were deprived of proper opportunity to defend themselves on relevant grounds. Further, disqualification cannot be imposed on basis of acts of previous committee, unless there is material showing participation, knowledge, or continuation of illegality by present members. The order to the extent it disqualifies petitioners for period of five years cannot be sustained

and deserves to be set aside. However, this conclusion is based on overall assessment of notice, inquiry, and order together, and not merely on technical ground alone.

9. Hence, rule is made absolute in terms of prayer clauses a(i) and (iii).

10. The writ petition stands disposed of in above terms.

(AMIT BORKAR, J.)