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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.17279 OF 2025

Hakumchand Murlidhar Waykole & Ors. … Petitioners
V/s.
The State of Maharashtra & Ors. … Respondents

Mr. Surel Shah, Senior Advocate with Mr. Aakash Pandey and Mr. Venkatesh Shinde for the petitioners.

Mrs. V.S. Nimbalkar, AGP for respondent Nos.1 to 3-State.

Mr. S.R. Nargolkar, for respondent No.4.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 17, 2026

P.C.:

1. By the present writ petition filed under Article 227 of the Constitution of India, the petitioners challenge the Judgment and Order dated 25 September 2025 passed by respondent No.2 in Application No.264 of 2025 in exercise of powers under Section 154B-23 of the Maharashtra Co-operative Societies Act, 1960, along with the consequential order dated 3 December 2025.

2. The facts giving rise to the present petition are stated thus. Respondent No.4, who is also the developer, constructed respondent No.5 society. It is the case of the petitioners that respondent No.4 failed to remit an amount of Rs.1,12,07,375/-

towards maintenance and repair corpus fund, though the said amount had been collected from unit holders at the time of handing over possession in the year 2021. Respondent No.5 society came to be registered on 10 March 2023 with all unit holders as its members. Respondent No.4 also became a member on account of holding three unsold units. The managing committee of respondent No.5 issued several notices to respondent No.4 during the period from 1 April 2023 to 28 September 2024 calling upon him to furnish proper accounts in respect of the one-time maintenance and repair corpus fund collected by him. In the Annual General Meeting held on 28 September 2024, the audit report recording the dues receivable from respondent No.4 was approved and a decision was taken to initiate recovery proceedings against him.

3. It is further stated that respondent No.4 submitted an application to the society seeking certain documents on 29 January 2025. Thereafter, on 3 March 2025, the society issued a notice to respondent No.4 demanding payment of Rs.1,12,07,375/-. According to the petitioners, with an intention to obstruct recovery proceedings, respondent No.4, along with one member of the society, namely Mr. Manish Junnarkar, instituted Dispute No.57 of 2025 before the Co-operative Court, Pune on 7 March 2025 challenging the minutes of the Annual General Meeting held in 2024 and seeking orders restraining the society from issuing No Objection Certificates to members intending to dispose of their flats. The Co-operative Court, upon hearing the disputants, rejected the ex parte ad interim application by order dated 21

March 2025.

4. The petitioners contend that after failing to secure interim protection before the Co-operative Court, respondent No.4 filed an application before respondent No.2 on 24 April 2025 seeking disqualification of the entire managing committee. Respondent No.2 thereafter issued show cause notices dated 8 May 2025 to the society and the petitioners calling upon them to explain why action under Section 154B-23 of the Maharashtra Co-operative Societies Act should not be taken.

5. The petitioners and respondent No.5 appeared before respondent No.2 and filed their replies. Respondent No.2 heard the parties between 22 May 2025 and 17 June 2025 and reserved the matter for orders. In the meantime, on 1 June 2025, the society initiated steps for filing a complaint before RERA through its Secretary for recovery of the aforesaid amount from respondent No.4. Thereafter, respondent No.2 passed the impugned order dated 25 September 2025 disqualifying the entire committee consisting of the petitioners and respondent Nos.6 and 7. Subsequently, on 7 October 2025, forty five members of the society approached respondent No.2 raising grievances against respondent No.4.

6. After a period of fourteen days, on 9 October 2025, respondent No.2 issued a notice under Section 77A of the Maharashtra Co-operative Societies Act inviting applications from members interested in constituting a provisional committee. On 13 October 2025, three members submitted their consent before respondent No.2 seeking appointment as members of the provisional committee.

7. The petitioners preferred Revision Application No.386 of 2025 before respondent No.3 on 10 October 2025 challenging the impugned order. On 14 October 2025, forty four members of the society submitted an application before respondent No.2 expressing their intention to nominate three members to constitute a provisional committee until reinstatement of the disqualified committee. On 28 October 2025, respondent No.3 did not take up the interim application and posted the matter for final hearing on 10 November 2025. On 29 October 2025, one member of the society addressed a letter to respondent No.2 seeking issuance of No Objection Certificate for sale of a flat, though no action was taken thereon.

8. The petitioners further allege that respondent No.2 issued a communication dated 4 November 2025 addressed to the disqualified Chairman and Secretary directing that the welfare of members be protected and payments to service providers be continued. On 10 November 2025, respondent No.3 heard the parties in Revision Application No.386 of 2025 and reserved the matter for final orders. On 12 November 2025, forty four members of the society approached the Co-operative Commissioner raising grievances against respondent No.2.

9. Respondent No.3, by order dated 25 November 2025, dismissed Revision Application No.386 of 2025. Thereafter, respondent No.2, by communication dated 3 December 2025 addressed to the society, appointed an administrator to manage the affairs of the society. According to the petitioners, the said action is illegal and has resulted in disruption of the democratic functioning of the society. In these circumstances, the petitioners have approached this Court by way of the present writ petition.

10. Mr. Shah, learned Senior Advocate on behalf of the petitioners submitted that the order under Section 154B-23 of the MCS Act could not have been passed by the Registrar unless order under Section 154B-8(2) of the MCS Act requiring petitioners to submit documents. Moreover, the communications between petitioners and respondent No.4 shows that the society called upon respondent No.4 to pay requisite charges for copies, and thereafter within 45 days the society was under obligation to supply documents. In the absence of payment of charges, petitioners could not have applied for disqualification of the managing committee.

11. Per contra, Mr. Nargolkar, learned Advocate for respondent No.4 submitted that the show-cause notice issued by the Deputy Registrar under Section 154B-23 itself amounts to an order under Section 154B-8(2). Despite receipt of such show-cause notice, the society failed to supply documents to the respondent No.4. He submitted that the society of petitioners with mala fide intention attached the flat of respondent No.4. The documents sought by respondent No.4 were in relation to mismanagement of the managing committee and, therefore, the managing committee was not interested in supplying documents.

12. Relying on the judgment of this Court in the case of *Shahid Tamboli & Others vs. Divisional Joint Registrar, Cooperative Societies & others*, Writ Petition No.5096 of 2022 decided on 20 July 2023, he submitted that this Court held provisions of Section 154B-23 mandatory, and in absence of failure to supply documents despite receipt of show-cause notice, the disqualification under Section 154B-23(2) gets attracted.

13. In rejoinder, Mr. Shah submitted that this Court in paragraph 28 of the judgment in the case of *Shahid Tamboli* (supra) has specifically held that disqualification is incurred only when Registrar fastens liability on the member of the committee for default in supply of copies under Section 154B-8(2) of the MCS Act, 1960. He submitted that in the absence of managing committee held responsible under Section 154B-8(2), no question of disqualification arise. He, therefore, prayed for setting aside the impugned order.

14. The point for decision is narrow. Can the Registrar disqualify the managing committee under Section 154B-23 without first recording a finding under Section 154B-8(2) that the committee failed to supply copies or documents as required? The answer is no.

15. Section 154B-8 recognises a basic right of every member of a co-operative society. A member is not expected to remain dependent on the committee for information about the functioning of the society. Sub-section (1) therefore gives a clear entitlement to inspect important records such as the Act, the rules, bye-laws, audited balance sheet, profit and loss account, minutes of meetings, registers and those parts of records that concern the member's own transactions. The language used is direct and mandatory. The right is free of cost and is meant to ensure transparency in the day-to-day administration of the society. The legislative intention is obvious. A co-operative society functions on collective participation, and participation is meaningful only when members can access information without obstruction.

16. Sub-section (2) of Section 154B-8 takes the right one step further. Inspection alone may not always be sufficient. A member may need copies for legal proceedings, for raising objections, or for protecting his rights. Therefore the law imposes a duty on the society to furnish copies when a written request is made. At the same time, the statute balances this right by permitting the society to recover prescribed charges. The obligation to supply copies arises after payment of such fees. The timeline of forty-five days from the date of payment ensures that the society gets reasonable time to collect and prepare documents while preventing indefinite delay. Where the society receives government assistance, the period is reduced to thirty days, showing a higher expectation of transparency in publicly supported institutions.

17. This structure shows that Section 154B-8(2) creates a statutory duty. If the society fails to supply documents after the legal conditions are satisfied, responsibility can be fixed on those who control the affairs of the society. The provision therefore carries within it the possibility of consequences. However, those consequences do not arise automatically. Before liability is attached, the authority must examine whether the member made a proper written request, whether fees were demanded and paid, whether the time period expired, and whether the failure was attributable to the committee.

18. Section 154B-23 stands on a different footing. It is a disqualification provision. It deals with the eligibility of a person to continue as a member of the managing committee. Disqualification under this section is serious because it removes an elected representative from office and affects the democratic functioning of the society. Sub-section (1) lists specific situations where disqualification arises. One of those situations is where a person has been held responsible under Section 154B-8(2). The wording is important. The statute does not say that mere allegation of failure to supply documents is enough. It uses the expression "has been held responsible." This phrase necessarily requires a prior determination by the competent authority after application of mind.

19. Sub-section (2) shows the immediate consequence. Once disqualification is incurred, the member ceases to hold office and the seat becomes vacant by operation of law. Sub-section (3) further imposes a bar for five years in certain cases, which underlines the punitive and disabling nature of the provision. Such consequences cannot be triggered casually or on assumptions. The law expects a clear finding supported by reasons. Sub-section (4) again reflects the legislative balance by allowing re-entry when disqualification ceases, except in cases where the statute imposes a longer bar.

20. When these two provisions are read together, a clear statutory sequence emerges. Section 154B-8(2) creates the duty and identifies the circumstances in which responsibility may arise. Section 154B-23 comes into operation only after such responsibility is determined. In simple terms, the first provision establishes the default. The second provision prescribes the consequence. If the first step is absent, the second cannot stand on its own. This is consistent with basic principles of fairness. A person cannot be disqualified unless the underlying default is first proved and recorded.

21. The scheme also reflects legislative caution. Disqualification affects not only the individual office-bearer but also the members who elected the committee. Therefore, the authority must first decide whether there was an actual failure under Section 154B-8(2), whether the statutory conditions were satisfied, and whether the failure can be attributed to specific committee members. Only after such determination can Section 154B-23 be invoked. Otherwise the process would bypass the safeguards built into the Act.

22. This means that the Registrar cannot treat a show-cause notice or a complaint as equivalent to a finding of liability. The Registrar must pass a reasoned order under the relevant provision, identifying the breach and fixing responsibility. The order must show consideration of material facts such as payment of charges, communication between parties, and the timeline prescribed by law. Without this exercise, invocation of disqualification would amount to imposing punishment without establishing the foundation for it.

23. Therefore, Section 154B-8(2) and Section 154B-23 operate in a connected but sequential manner. The first provision deals with access to documents and the duty to supply them. The second deals with the consequence that follows only when a competent authority records that the committee failed in that duty.

24. A show-cause notice is a procedural step. It triggers the opportunity of the addressee to explain. A show-cause notice alone does not equate to a recorded finding of liability. The Registrar may issue a notice under the relevant provision to invite explanation. However, the power to disqualify cannot be exercised merely because a show-cause notice was issued and unanswered. The authority must apply mind and record a reasoned conclusion that the managing committee incurred the specific default required by Section 154B-8(2). The conclusion must follow from the materials and must be express.

25. The record shows that respondent No.2 issued show-cause notices. The record does not disclose that respondent No.2 recorded any specific finding that the managing committee had become liable under Section 154B-8(2). The impugned order disqualifies the entire committee. The order refers to default but does not analyse the payment issue or the correspondence which indicates that respondent No.4 was requested to pay charges. The order treats the issuance of show-cause notice and the absence of an adequate reply as amounting to conclusively proven liability. That reasoning is legally inadequate.

26. The managing committee and the society had a right to have the Registrar consider whether the statutory pre-condition for disqualification existed. Where the supply of copies depends on deposit of charges by the applicant, the question of default is intertwined with whether the applicant complied with the procedural precondition. The authority must consider these facts and record why it holds the committee responsible. Absent that exercise, the Registrar's action cuts across the rules of natural justice and the statutory framework.

27. In *Shahid Tamboli*, the order of disqualification did not arise in isolation. The disqualification followed a prior adjudicatory step where the competent authority had already held the managing committee responsible for failure to comply with the obligation under Section 154B-8(2). That prior determination formed the legal foundation for invoking Section 154B-23. Therefore, where no order exists holding the committee responsible under Section 154B-8(2), reliance on *Shahid Tamboli* is misplaced. The precedent supports the statutory sequence rather than bypassing it. It reinforces that disqualification is a consequential step and not a substitute for the initial determination of default.

28. For these reasons I pass the following directions.

(a) The impugned order dated 25 September 2025 passed by respondent No.2 in Application No.264 of 2025 is quashed and set aside.

(b) The consequential communication dated 3 December 2025 appointing an administrator is set aside.

29. No order as to costs.

30. Petition allowed in the above terms.

(AMIT BORKAR, J.)