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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9852 OF 2025
WITH
INTERIM APPLICATION NO.1893 OF 2026

AND

WRIT PETITION NO.9853 OF 2025
WITH
INTERIM APPLICATION NO.1894 OF 2026

Sanjay Kamlakar Mankar ... Petitioner
V/s.
The State of Maharashtra & Others ... Respondents

Ms. Kshitija V. Moreshwar for the petitioner/applicant in both IAs.

Smt. Mamta Shrivastava, AGP for respondent Nos.1 to 3-State in WP/9852/2026.

Smt. Mamta Shrivastava AGP for respondent Nos.1 to 3-State in WP/9853/2026.

CORAM : AMIT BORKAR, J.

DATED : MARCH 9, 2026

P.C.:

Interim Application Nos.1893/2026 & 1894/2026:

1. For the reasons stated therein, both the interim applications are allowed.

Writ Petition Nos.9852/2026 & 9853/2026:

2. Both these writ petitions arise from the same set of facts and challenge the same controversy. The dispute originates from an order passed by the Deputy Registrar, Cooperative Societies, Pune City. By the said order, the entire managing committee of the concerned housing society came to be disqualified for a period of six years. The Deputy Registrar exercised powers under Section 79A(3) of the Maharashtra Cooperative Societies Act, 1960 while passing this order. Section 79A enables the State Government to issue directions in the public interest or in the interest of proper management of cooperative societies. Sub section (3) provides consequences where a committee fails to comply with such directions. The order of disqualification therefore rests upon the assumption that the managing committee acted in breach of a binding direction issued under this provision. The consequences of disqualification is that a committee elected by the members loses its right to manage the affairs of the society for a substantial period of six years. Such a consequence cannot follow unless the statutory requirements of Section 79A are clearly satisfied.

3. The reasons recorded by the Deputy Registrar indicate that, according to him, the managing committee had incurred disqualification because it had recovered development charges in excess from certain members. This recovery was stated to have been made on the basis of a resolution passed by the managing committee on 27 February 2021. The Deputy Registrar took the view that such recovery was contrary to a direction issued by the State Government dated 9 August 2001. Proceeding on this premise, he concluded that the committee had acted in violation of the government direction issued under Section 79A of the Act. On that basis, the entire committee was held liable and was disqualified for the statutory period. However, a closer reading of the order shows that the reasoning rests entirely on the assumption that the government direction covered the field of development charges also. If that assumption does not hold good, the foundation of the order itself becomes unteneble.

4. The text of the government direction dated 9 August 2001 read as a whole, it becomes clear that the State Government had issued the said direction for regulating the amount of premium to be charged by cooperative housing societies at the time of granting membership to a new entrant. The direction specifies the maximum premium that may be charged and lays down limits so that societies do not misuse their position against persons seeking membership. Importantly, the direction is confined to the subject of premium payable for admission of new members. It does not deal with development charges which may be collected by a society for improvement, repair, or development of the property of the society. The direction dated 9 August 2001 does not regulate or prohibit such charges. Therefore, the reliance placed by the Deputy Registrar on this direction appears to be based on an incorrect reading of its scope.

5. Once this position becomes clear, the legal consequence also follows. For attracting the consequences under Section 79A(3), there must first exist a valid and subsisting direction issued by the State Government under Section 79A. Secondly, it must be shown that the managing committee has failed to comply with that specific direction. In the present case, the direction relied upon relates only to premium charged at the time of enrollment of a new member. The resolution dated 27 February 2021, on the other hand, concerns development charges collected from members. When the government direction itself does not prohibit or regulate development charges, the passing of a resolution by the managing committee on that subject cannot be treated as a breach of the direction. In the absence of such breach, the very condition necessary for invoking Section 79A(3) is not satisfied. Therefore, the basis on which the Deputy Registrar proceeded to disqualify the committee does not sustain in law.

6. In this background, the order passed by the Divisional Joint Registrar assumes significance. The Divisional Joint Registrar examined the matter in revision and considered the scope of the government direction dated 9 August 2001. After examining the material on record, he concluded that the direction relied upon by the Deputy Registrar did not cover development charges. On that reasoning, he held that the finding of breach recorded by the Deputy Registrar was unsustainable. Consequently, the revisional authority set aside the order of disqualification. Having examined the record and the reasoning adopted by the revisional authority, I find no infirmity in that approach.

7. There is no error apparent on the face of record. The writ petition, therefore, stands dismissed. No costs.

(AMIT BORKAR, J.)