Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2065 OF 2026

Ramakant Rane and Others … Petitioners
V/s.
Darius Dawar and Others … Respondents

Mr. Punit Gehi, for Petitioner.

Mr. Radhikesh Vivek Uttarwar, with Pooja R. Thakur and Pradnya C. Solanki for Respondent no. 1.

Mr. P. V. Nelsan Rajan, AGP for State- Respondent nos. 2 and 3.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 16, 2026

P.C.:

1. The petitioner was holding the post of Chairman and Secretary of the housing society. He has questioned the legality of the orders passed by the competent authorities under the Maharashtra Cooperative Societies Act by invoking powers under Section 75(5). The challenge is essentially to the disqualification which has followed from the finding that statutory obligations relating to audit were not followed. The Court therefore has to examine whether the authorities acted within the framework of the Act and whether the petitioner, being an office bearer, can avoid responsibility for those lapses.

2. The core charge is that the society did not comply with Section 75(2)(A). The audit report was not placed before the general body meeting. The statute makes the general body the supreme body of the society. Financial transparency is achieved only when members receive the audit report and are allowed to discuss it. Non-placement of the audit report deprives members of knowledge about financial affairs. Therefore the violation is core default as per judgment of this court in *Kailash Maheshwari* v. *State of Maharashtra,* 2025 SCC OnLine Bom 3395.

3. Certain facts are not disputed. The auditor appointed by the general body for the financial year 2024-2025 never conducted the audit. Instead, another person, who had no appointment from the general body, prepared the audit report. This itself amounts to breach of Section 75(2), because the statute recognises only an auditor chosen in the prescribed manner. A society cannot accept an audit by a self-appointed individual. Further, even that report was not placed before the general body. The bye-laws clearly place the duty on the Chairman and Secretary to convene the meeting and circulate the audit report. Once the statute fixes a duty and the bye-laws identify the responsible office bearers, failure attracts consequences. The authorities therefore concluded that the petitioner, being responsible for ensuring audit compliance and presentation before members, incurred disqualification. The reasoning cannot be termed arbitrary or excessive.

4. The petitioner attempted to shift the blame to the Treasurer by relying upon an undertaking said to have been given by the Treasurer accepting responsibility. This argument does not assist the petitioner. Statutory duties cannot be transferred by private arrangements. The Act and the bye-laws impose independent responsibilities on specific office bearers. The Chairman and Secretary are required to convene the general body and place the audit report before it. Even if the Treasurer committed a lapse, that does not absolve the petitioner of his own statutory obligation. Additionally, the Treasurer is not a party before this Court. Any observation affecting him would violate basic principles of natural justice. Hence the Court cannot examine his alleged admission or record findings against him.

5. For these reasons, the contention raised on behalf of the petitioner fails. The authorities were justified in holding that the statutory default occurred and that the petitioner, being the responsible office bearer, attracted the consequences under the Act.

6. The petition is therefore, dismissed.

(AMIT BORKAR, J.)