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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5162 OF 2026

Gopikrishnan Appadurai Mudaliar … Petitioner
V/s.
The Divisional Joint Registrar,
Cooperative Societies & Others … Respondents

Mr. Drupad S. Patil with Mr. Prasad G. Keluskar for the petitioner.

Mr. Y.D. Patil, AGP for respondent No.1-State.

Mr. N.N. Bhadrashete i/by Ms. Priyanka N. Bhadrashete for respondent Nos.2 and 9.

CORAM : AMIT BORKAR, J.

DATED : MAY 5, 2026

P.C.:

1. **Rule**. Rule is made returnable forthwith.

2. The challenge raised in the present writ petition emanates from the exercise of statutory powers by the Registrar under Section 75(5) of the Maharashtra Cooperative Societies Act, 1960 (hereinafter referred to as "the MCS Act").

3. The principal submission advanced on behalf of the petitioner is that he was only a member of the provisional managing committee, the tenure whereof admittedly came to an end in July 2019. It is contended that the disqualification imposed upon him, on the ground of failure to place the accounts of the society before the general body for the period from 2018–2019 to 2022–2023, is unsustainable in law. According to the petitioner, the statutory requirement under Section 75(5) of the MCS Act contemplates disqualification only of a person who was, in the eye of law, a member of the managing committee, and since he did not hold such status within the meaning of the Act, the invocation of the said provision against him is without authority of law.

4. In opposition, Mr. Bhadrashete, learned counsel appearing on behalf of the respondent-society, submits that notwithstanding the petitioner's initial designation as a member of the provisional managing committee, he in fact continued to remain in charge of and function in the capacity of a managing committee member. It is urged that the petitioner actively participated in the affairs of the society and discharged duties which are otherwise attributable to a member of the managing committee, thereby assuming corresponding rights and obligations vis-à-vis the society. On such premise, it is contended that, for the purposes of Section 75(5) of the MCS Act, the petitioner must be regarded as a managing committee member, and consequently, the action of disqualification is in consonance with the statutory framework.

5. Having heard the learned Advocates appearing for the respective parties, and upon careful consideration of rival submissions, this Court finds that for proper adjudication of the controversy involved, it becomes necessary to reproduce and examine the provisions of Section 73-I of the Maharashtra Cooperative Societies Act, 1960. The said provision deals with the responsibility cast upon the managing committee, or in given cases the Administrator or authorised officer, to take timely steps for conduct of elections before expiry of its term. The section creates a statutory obligation which requires positive action in advance. The language used shows that the Legislature intended that there should be no vacuum in management and no uncertainty in democratic functioning of the society.

6. On a simple and plain reading of Section 73-I, it becomes clear that before the expiry of the term of the committee, as contemplated under sub-section (14) of Section 73CB, the managing committee is under a legal duty to intimate the State Co-operative Election Authority for the purpose of conducting elections in time. This requirement is mandatory in nature. If such intimation is not given, and election is not held before expiry of the term for any reason, then the statute itself provides consequence. The members of the committee cease to hold office. This cessation is automatic. It does not depend on further declaration. In such situation, the Registrar is expected to step in and take action under Section 77A. The scheme shows that continuation of committee beyond its term is not permitted unless specifically saved by law.

7. In the present case, no such saving provision or deeming continuation is shown to be applicable. Therefore, the provisional committee which was in charge could have legally functioned only for the limited period permissible, which is one year, and such period came to an end in July 2019. After this point, whatever acts were performed by such persons may be acts in fact, but not acts in law in the capacity of a validly subsisting committee. Mere continuation in office or performance of day to day business cannot, by itself, clothe such person with legal status of a managing committee member for all purposes. Particularly for attracting disqualification under Section 75(5), the person must be one who is legally recognised as holding such office. At the same time, the statute places a corresponding obligation upon the Registrar to take timely steps, to appoint an authorised officer and to ensure that election process is initiated without undue delay. Failure on that part cannot be shifted entirely upon such individual.

8. Insofar as the acts performed and transactions entered into by the persons who continued to function after expiry of the tenure are concerned, this Court is not required to go into that aspect in the present writ petition. Those questions involve separate consideration of legality and validity of such acts and their effect on third parties or on the society. Since such issues are not directly arising for determination here, the same are expressly kept open. It will be open to the competent authority to examine those questions in appropriate proceedings, in accordance with law, without being influenced by any observation made in this judgment.

9. It is also necessary to notice the object behind introduction of sub-section (5) of Section 75 of the MCS Act. The said provision is enacted with a clear purpose. It seeks to ensure accountability of the managing committee or of the officer who is entrusted under the bye-laws or rules with specific statutory duties. The obligation to place accounts before the general body and to comply with statutory requirements is not a mere formality. It is central to transparency and proper governance of the society. Therefore, the provision provides for disqualification in case of failure, so that persons holding responsibility do not act in disregard of statutory duties. The intention is to enforce discipline in functioning and to prevent misuse of position.

10. However, when the tenure of such committee itself has come to an end, the legal character of the person changes. A person who is no longer holding office in the eye of law cannot be treated as continuing member merely because he remained in physical control or continued to act. The statute draws a distinction between lawful holding of office and mere factual continuation. The obligations under sub-sections (2), (2A), (3) and (4) of Section 75 are cast upon persons who are legally occupying the position of managing committee members. Once such tenure expires, and no valid extension or deeming provision applies, such person cannot be said to be a committee member in law. Therefore, for the purpose of attracting disqualification under Section 75(5), it is necessary that the person must be a legally recognised member of the managing committee during the relevant period. A person holding only de facto charge after expiry of term cannot be brought within the sweep of the said provision. To hold otherwise would amount to enlarging the scope of disqualification beyond what the statute contemplates.

11. The scheme of the Act shows that duty to place the accounts of the society before the General Body is attached to the office and not merely to the individual. Therefore, when a committee is validly elected or otherwise legally in place, it carries with it both authority and responsibility. The requirement of placing accounts is part of such responsibility, and supervision by the General Body. In absence of such legally constituted body, the foundation on which this obligation stands becomes uncertain.

12. At the same time, in a situation where the tenure of the managing committee has already come to an end, the legal character of such body undergoes change. Once the term expires, the committee ceases to have recognition in the eyes of law unless there is some express provision permitting its continuation. If such continuation is not supported by any statutory provision, then it becomes unauthorised. In such case, such committee cannot claim to exercise rights which are available only to a lawful managing committee.

13. The position, therefore, becomes somewhat peculiar. On one hand, such persons may continue to function in fact and may carry on day to day affairs of the society. On the other hand, in law, their authority stands extinguished. Further, if such interpretation is accepted, it may lead to inconsistency in application of law. A body which has no legal right to continue cannot at the same time be made fully answerable for statutory duties which arise only from lawful holding of office. The responsibility in such situation shifts upon the statutory authorities, more particularly the Registrar, who is expected to take timely steps to prevent such vacuum and to ensure that either elections are conducted or an authorised officer is appointed. Failure of such mechanism cannot be used to impose disqualification or liability upon persons who are no longer holding office in the legal sense.

14. Thus, upon overall consideration, it follows that once the tenure of the managing committee comes to an end and its continuation is not supported by law, such committee neither retains enforceable rights under the Act nor can it be bound by obligations which are intended only for a duly constituted managing committee.

15. In view of the aforesaid discussion and overall assessment of the statutory scheme and facts on record, this Court is of the opinion that the impugned orders passed against the petitioner cannot be sustained in law. The foundation on which the disqualification is imposed is not legally tenable. Consequently, the impugned orders are liable to be quashed and set aside insofar as they relate to the petitioner.

16. Accordingly, the Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

(AMIT BORKAR, J.)