

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6463 OF 2026

Navita J. Khetarpal & Ors. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

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Mr. Prashant Kulkarni with Ms. Ritika Rajeev i/by Ms. Rachna Mamnani for the petitioners.

Mrs. Vaishali Nimbalkar, AGP for respondent Nos.1 and 2-State.

Mr. Vishwanath Patil with Mr. Kedar Nhavkar for respondent Nos.3 and 4.

CORAM : AMIT BORKAR, J.

DATED : MAY 8, 2026

P.C.:

1. The petitioners are members of a co-operative housing society, against whom the competent Authorities under the provisions of the Maharashtra Cooperative Societies Act, 1960 have passed an order in exercise of powers under Section 77A of the said Act.

2. Learned Advocate appearing on behalf of the petitioners submits that though the Managing Committee of the society originally consists of 13 members, two seats reserved for candidates belonging to backward class category remained vacant due to non-availability of eligible candidates. It is submitted that in view of Section 154B-22 of the Act, such vacant reserved seats are

required to be excluded while computing the effective strength and constitution of the Committee. According to him, therefore, the effective strength of the Managing Committee is required to be treated as 11 members. He further submits that the impugned order itself indicates that seven persons were functioning as members of the Managing Committee. It is also pointed out that this Court, in Writ Petition No.17565 of 2025, has granted interim protection in favour of the 8th member, who had been disqualified, thereby permitting continuation of such member pending adjudication. Learned Counsel further contends that despite availability of the remaining elected members, the Registrar proceeded to appoint an Authorized Officer under Section 77A of the Act by superseding the existing Managing Committee, which, according to him, *prima facie* reflects arbitrary and colorable exercise of statutory power.

3. Per contra, learned Advocate appearing for respondent Nos.3 and 4 submits that the petitioners have already availed the alternate statutory remedy of appeal against the impugned order. It is further submitted that the Managing Committee admittedly consists of 13 members and, therefore, for the purpose of Section 77A(b-1) of the Act, the requirement of two third majority would necessarily mean presence of at least eight members. According to the respondents, since such statutory requirement was not fulfilled, the order passed by the Authority cannot be said to be contrary to law and the same is fully sustainable within the framework of Section 77A(b-1) of the Act.

4. Upon perusal of the material placed on record, it appears that though the Committee was originally constituted with 13 members, Section 154B-22 of the Act specifically contemplates exclusion of reserved seats meant for backward class categories in cases where eligible candidates are not available for such seats. Consequently, for the limited purpose of determining the effective strength and constitution of the Committee, the Committee is required to be treated as consisting of 11 members. If that position is accepted, the requirement of two third majority would evidently fall below eight members. Prima facie, the members who were continuing to function as members of the Managing Committee would therefore satisfy the statutory requirement, particularly having regard to the ad interim order dated 10 March 2026 passed by this Court in Writ Petition No.17565 of 2025, whereby protection was granted to the concerned member.

5. It further appears from the impugned action that apart from displacing the existing Managing Committee, the Authorities under the Act have also proceeded to appoint the remaining three persons as members of the Managing Committee, pending further proceedings.

6. Having regard to the cumulative effect of the aforesaid circumstances, this Court is of the prima facie opinion that the petitioners have succeeded in making out a case warranting grant of interim protection during pendency of the statutory appeal. The balance of convenience also appears to tilt in favour of maintaining the existing position, particularly when the legality of the impugned action is yet to attain finality before the appellate

forum.

7. Hence, it is clarified that during pendency of the appeal, the operation and implementation of the order appointing the Authorized Officer shall remain stayed. It is further directed that in the event the appeal is decided against the petitioners, the said order shall continue to remain stayed for a further period of eight weeks from the date of communication of such decision.

8. The writ petition accordingly stands disposed of in the aforesaid terms. There shall be no order as to costs.

(AMIT BORKAR, J.)