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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11625 OF 2025

ATUL
GANESH
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1. **Vijay Lakhi**, Age 47 years, Adult,
of Mumbai Indian Inhabitant
r/at Flat No.B/8, Jeevan Jyot,
Plot No.698/699, Jeevan Jyot Bldg.,
14th Road, Khar (West),
Mumbai - 400 052
 2. **Chandra Sabhani**, Age 48 years, Adult,
of Mumbai Indian Inhabitant
resident at Flat No.7, Jeevan Jyot,
Plot No.698/699, Jeevan Jyot Building,
14th Road, Khar (West),
Mumbai 400 052
 3. **Suresh Nichani**, Age 71 years, Adult,
of Mumbai Indian Inhabitant
residing at Flat No.D/6, Jeevan Jyot,
Plot No.698/699, Jeevan Jyot Building,
14th Road Khar (West),
Mumbai - 400 052
 4. **Ramesh Khushlani**, Age 84 years, Adult,
of Mumbai Indian Inhabitant
r/at Flat No. C/6, Jeevan Jyot,
Plot No.698/699, Jeevan Jyot Bldg.,
14th Road, Khar (West),
Mumbai - 400 052
- ... Petitioners

V/s.

1. **Minister of Co-operation**,
Department of Co-operation, Marketing
and Textiles, Hutatma Raguru Marg,
Madam Cama Marg,
Main Building, Mantralaya,

Mumbai – 400 032.

2. **Divisional Joint Registrar,**
Co-operative Societies,
Mumbai Division, Mumbai,
Malhotra House, 6th Floor,
Opposite GPO, Fort,
Mumbai – 400 001.
3. **District Deputy Registrar,**
Co-operative Societies,
H West Ward, Revenue Complex,
2nd Floor, Opposite Bandra Bus Depot
Bandra (West), Mumbai – 400 050.
4. **Purshottam Bhagwan CHS Ltd.,**
Jeevan Jyot,
Plot No.698/699, Jeevan Jyot Building,
14th Road, Khar (West),
Mumbai 400 052.
5. **Dinesh Bhavani,**
Adult, of Mumbai Indian Inhabitant,
residing at Flat No.C/3, Jeevan Jyot,
Plot No.698/699, Jeevan Jyot Building,
14th Road, Khar (West),
Mumbai 400 052.
6. **Anil Bhatija Bhavani,**
Adult, of Mumbai Indian Inhabitant,
residing at Flat No.D/2, Jeevan Jyot,
Plot No.698/699, Jeevan Jyot Building,
14th Road, Khar (West),
Mumbai 400 052.
7. **Jairam Mulchandani,**
Adult, of Mumbai Indian Inhabitant,
residing at Flat No.C/4, Jeevan Jyot,
Plot No.698/699, Jeevan Jyot Building,
14th Road, Khar (West),

Mumbai 400 052.

8. Haresh Udasi,

Adult, of Mumbai Indian Inhabitant,
residing at Flat No.C/2, Jeevan Jyot,
Plot No.698/699, Jeevan Jyot Building,
14th Road, Khar (West),
Mumbai 400 052.

9. Delishiya Chhabria,

Adult, of Mumbai Indian Inhabitant,
residing at Flat No.A/2, Jeevan Jyot,
Plot No.698/699, Jeevan Jyot Building,
14th Road, Khar (West),
Mumbai 400 052.

10. Lalta Chhabria,

Adult, of Mumbai Indian Inhabitant,
residing at Flat No.A/1, Jeevan Jyot,
Plot No.698/699, Jeevan Jyot Building,
14th Road, Khar (West),
Mumbai 400 052.

11. Rajesh Medhe,

(Administrator, File No.ADM/DDR -
3/38), Competent Authority
of Purushottam Bhagwan
Cooperative Housing Society Ltd.,
Jeevan Jyot, Plot No.698/699, Jeevan
Jyot Building, 14th Road, Khar (West),
Mumbai 400 052.

... Respondents

Mr. Girish Godbole, Senior Advocate, a/w Piyush Raheja, Jimish Shah, Nirvi Shah, for the petitioners.

Mr. Hamid D. Mulla, AGP, for the State – respondent Nos.1 to 3.

Mr. A. Y. Sakhare, Senior Advocate a/w Mr. Prashant P. Kulkarni, Rachna Mamnani, Ritika Rajeev and Subhash Yadav, for respondent Nos.5 to 10.

CORAM : AMIT BORKAR, J.

RESERVED ON SEPTEMBER 30, 2025

PRONOUNCED ON : OCTOBER 06, 2025

JUDGMENT:

1. By this writ petition under Articles 226 and 227 of the Constitution of India, the petitioners have challenged the judgment and order dated 1 July 2025 passed by respondent No.1. By the said order, respondent No.1 confirmed the judgment and order dated 18 March 2025 of respondent No.2, which in turn had confirmed the judgment and order dated 26 November 2024 of respondent No.3. Respondent No.3, while exercising powers under Section 77A of the Maharashtra Co-operative Societies Act, 1960, dissolved the existing managing committee of respondent No.4 society and appointed an Administrator to conduct fresh elections. The order was passed on the ground that four members of the managing committee, which consisted of eight members, had resigned, thereby reducing the committee below the required quorum.

2. The relevant facts are that elections of the managing committee of respondent No.4 society were held on 9 January 2022 for the term 2021–2022 to 2025–2026. Petitioner Nos.1 to 4, respondent Nos.5, 7, and 9, and one Mrs. Tamanna Ailani were elected as members of the managing committee. On 11 April 2023, respondent No.5 resigned. On 20 June 2023, respondent Nos.7 and 9 tendered their resignations. On 29 June 2023, Mrs. Tamanna Ailani also resigned.

3. On 7 January 2024, the petitioners co-opted two members to fill the vacancies. Thereafter, on 7 March 2024, respondent Nos.5 to 10 moved an application under Section 77A of the Act. On 26 November 2024, respondent No.3 passed an order dissolving the managing committee of the petitioners and appointed an independent Administrator. The appeal filed by the petitioners was dismissed by respondent No.2 on 18 March 2025. The revision filed by the petitioners was also dismissed by respondent No.1 on 1 July 2025. Hence, the present writ petition has been filed.

4. Shri Godbole, learned senior counsel appearing for the petitioners, submitted that the Registrar, while exercising powers under Section 77A(1), was bound to publish a notice inviting objections and suggestions to the proposed action. Dispensing with such notice can be justified only if the Registrar records satisfaction that immediate action is necessary, or that publication of such notice is not reasonably practicable. He submitted that in the present case, neither urgency nor impracticability was shown.

5. Learned counsel further submitted that under sub-section (1) of Section 77A, the Registrar is first required to consider the courses available under clauses (i) and (ii). Only after recording satisfaction that those courses are not possible, can the Registrar proceed to appoint a third-party Administrator. It was urged that the Registrar ought to have referred the matter to the general body for co-option or fresh appointment of committee members. Instead, the Registrar proceeded to appoint an authorised officer from outside the society. It was further submitted that, as regards quorum, the managing committee consisted of eight members, but

since reserved category members were not available, the actual working strength required to be considered was less.

6. Reliance was placed on Government Resolution dated 3 January 2024, which prescribed quorum as three members. It was submitted that, in view of the said Government Resolution, the co-option made by the petitioners was valid. Learned counsel relied upon the judgment of this Court in *Vishwas Bajirao Patil v. State of Maharashtra*, 2019 SCC OnLine Bom 1770, and the judgment of the Supreme Court in *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1, to contend that such directions require to be construed as retroactive in nature.

7. In support of the submission that clauses (i) and (ii) of Section 77A(1) must be exhausted before resorting to appointment of an Administrator under clause (iii), reliance was also placed upon the unreported judgment of this Court in *Swapnil s/o Sunil Likhar v. District Deputy Registrar, Co-operative Societies, Nagpur*, Writ Petition No.4442 of 2017, decided on 17 July 2018.

8. Per contra, Shri Sakhare, learned Advocate appearing for respondent Nos.5 to 10, invited my attention to the Government Resolution dated 3 January 2024 issued in exercise of powers under Section 154B-19 of the Maharashtra Co-operative Societies Act, 1960. He submitted that the purpose of the said Government Resolution was to relax the condition regarding existence of 11 managing committee members in case of housing societies having less than 35 members. The Resolution records that Section 154B-19(1) empowers the State Government to specify, by special order,

the minimum number of managing committee members.

9. Reference was made to the model bye-laws for housing societies, in particular Model Bye-law No.114, which prescribes the number of managing committee members depending on the strength of the general body and also provides for the minimum quorum. However, the model bye-laws did not contain any separate provision for housing societies consisting of less than 35 members. Hence, by the said Government Resolution dated 3 January 2024, the State of Maharashtra decided that in case of housing societies having less than 35 members, the number of managing committee members to be elected shall be five, and the quorum for such committee shall be three.

10. It was his submission that in view of the language of Section 154B-19, the said Government Resolution has to be regarded as prospective and applicable only to managing committees constituted after the Resolution came into force. According to him, it cannot govern the functioning of managing committees which were constituted before 3 January 2024. In support of this proposition, reliance was placed on the judgment of the Supreme Court in *Commissioner of Income Tax v. Essar Teleholdings Ltd.*, (2018) 3 SCC 253, particularly paragraphs 22, 26, 41, and 51, where it has been laid down that in absence of clear legislative intent, notifications and orders are to operate prospectively.

11. He pointed out that at the time of constitution of the managing committee of respondent No.4 society, the strength was fixed at 11 members, out of which 3 seats were reserved for

members of the reserved categories, which were not available. Accordingly, a managing committee of 8 members came to be constituted. The quorum for such a committee of 8 members was 5. When 4 out of 8 members resigned, their resignation took effect immediately, and they ceased to be committee members from the date of resignation. Thus, on the date when the meeting for co-option of 3 members was convened, only 4 members remained, which was short of the quorum of 5. Hence, the co-option was invalid.

12. On this basis, he argued that the managing committee of respondent No.4 society could not have legally functioned with only 4 members. Therefore, the Registrar, in exercise of powers under Section 77A, had no other option but to dissolve the committee and appoint an Administrator. In support, reliance was also placed upon the Division Bench judgment of this Court in *Arun Trivikramrao Rajurikar v. Govardhan Janardhan Kore*, 1982 *Maharashtra Law Journal* 576. He therefore submitted that the writ petition deserves to be dismissed.

13. Shri Mulla, learned Assistant Government Pleader, supported the impugned order and submitted that the Registrar has rightly exercised powers under Section 77A. He contended that in view of lack of quorum, appointment of Administrator was fully justified and calls for no interference.

14. In order to appreciate these rival submissions, it is necessary to examine the scheme and object of Section 77A.

Scheme of Section 77A:

15. Section 77A was brought into statute to make sure that the work of a co-operative society does not stop when the elected managing committee is unable to perform its duties. A co-operative society is meant to be run by its members in a democratic manner. But the Legislature realised that situations like disputes, resignations, or disqualifications of members can make the committee non-functional. If a society is left without a governing body, it harms not only its members but also the larger purpose of co-operatives, which is to serve the common interest.

16. This section, therefore, tries to maintain a balance. On one side, it respects that the society should be run by its own members. On the other side, it recognises that the functioning of the society must continue even if there are internal problems. For this, Section 77A gives powers to the Registrar, but in a step-by-step manner. First, under clause (i), the Registrar can fill up vacant seats by appointing members of the society. If that is not enough, under clause (ii), he can form a small temporary committee of up to three members from the society. Only when both these methods are not possible, the Registrar may, under the expression 'one or more authorised officers', appoint authorised officers from outside the society to manage its affairs.

17. This arrangement shows the purpose of the law. The Registrar's power is not meant to replace elected management. It is only a temporary safeguard to avoid a complete breakdown. Preference is always given to internal management by members,

and bringing in outsiders is permitted only in rare and exceptional cases. Such power must be used carefully, and the Registrar must explain why the lesser steps could not work before bringing in an outsider.

18. Thus, Section 77A serves two purposes. It protects democratic functioning by giving priority to appointment of members from the society itself. At the same time, it ensures that the society continues to function without interruption, so that the members and the public are not affected. The section is not meant as a punishment but as a remedy, to maintain stability without destroying the autonomy of the co-operative body.

19. Section 77A must also be seen in the wider background of the Constitution. By the 97th Amendment, Parliament had added Part IX-B to the Constitution, giving special importance to co-operative societies. This Amendment also made the right to form co-operative societies a part of the fundamental right under Article 19(1)(c). The idea was to ensure that co-operative societies function in a democratic, independent and accountable manner.

20. However, in *Union of India v. Rajendra N. Shah*, (2022) 19 SCC 520, the Supreme Court upheld the decision of the Gujarat High Court and held that Part IX-B cannot apply to co-operative societies working only within one State, because the amendment was not ratified by at least half of the States, as required under Article 368(2). The result is that Part IX-B continues to apply only to multi-State co-operative societies, but it does not govern co-operative societies within a State. Even so, the Supreme Court

made it clear that the principles of democracy and member-driven functioning in co-operatives remain very important, and it is the duty of the State Legislatures to secure them through their own laws.

21. It is in this setting that Section 77A of the Maharashtra Co-operative Societies Act must be understood. The State Legislature, using its own powers, has provided a method to see that societies are never left without a functioning committee, but at the same time their democratic character is protected. The structure of Section 77A shows that first preference is to be given to members managing their own affairs, and only in exceptional situations can an outsider be brought in temporarily.

22. Therefore, even though Part IX-B does not apply to State co-operatives, its spirit of ensuring democratic and autonomous functioning must guide the interpretation of Section 77A. The section must be read in a way that keeps societies self-governed and independent, while also ensuring that their day-to-day work does not stop when the committee fails to function.

23. The Registrar can act under Section 77A(1) only when he is satisfied that one of the situations listed in clauses (1-a) to (f) exists. Satisfaction here means objective satisfaction based on material. It is not arbitrary.

i) Clause (1-a): If a provisional committee, which is formed to look after affairs until the first regular committee is elected, fails to make arrangements for holding elections before its term ends, the Registrar can step in. It is intended to prevent provisional

committees from overstaying and to ensure that elections for the first regular committee are not delayed.

ii) **Clause (a)**: When the committee of a society is being constituted for the first time, and all members are not elected, or some seats remain vacant, the Registrar can intervene. The purpose is to avoid a situation where a newly formed society has no effective managing body due to incomplete elections.

iii) **Clause (b)**: When the term of a committee or any of its members has expired, or fresh elections are held but some vacancies are not filled, the Registrar may act. The object is to cover cases where a regular committee exists but cannot continue due to expiry of term or incomplete elections. It ensures smooth transition.

iv) **Clause (b-1)**: When there is a stalemate or deadlock, or the committee has ceased to function, creating a vacuum in management, the Registrar may step in. The intention is to provide remedy where internal disputes or resignations make the committee ineffective, and day-to-day management becomes impossible.

v) **Clause (c)**: When a newly elected committee is prevented from entering office, for example, due to disputes, court orders, or obstruction, the Registrar may intervene. This clause is intended to ensure that a duly elected committee is not kept out of office, and that administration does not come to a halt.

vi) **Clause (d)**: When a new committee fails to assume charge on the date the earlier committee's term expires, the Registrar may

act. The purpose is to avoid a gap between expiry of one committee's term and assumption of office by the next.

viii) Clause (f): Where two rival groups both claim to be the elected managing committee, and a dispute is already filed before the Co-operative Court, the Registrar may step in. The intention is to maintain neutral administration during pendency of dispute, and to prevent one faction from taking over until the Court decides.

24. Sub-section (1) of Section 77A explains the situations in which the Registrar can step in and take action in a co-operative society. The main idea is that the society should never be left without a working managing body, and its day-to-day functioning must continue without break.

Clause (i) of Section 77A(1)

25. Clause (i) of Section 77A(1) deals with situations where the elected committee is broadly in place but some seats are left vacant. This may happen at the first election itself, where not all seats are filled, or later, when some members resign, die, or are disqualified. In such cases, the committee is not completely paralysed. It is only short of its full strength.

26. This provision, therefore, allows the Registrar to step in and fill up those vacancies by appointing members of the society itself. The purpose is limited, to complete the committee and ensure that it can continue its work smoothly. This avoids unnecessary disruption and keeps the society under the control of its own members, which is the essence of the co-operative movement.

27. It is important to note that this power is meant only for filling casual or temporary gaps. It is not a license for the Registrar to interfere with the elected body whenever he wishes. The elected committee remains the main governing authority, and the Registrar's role under clause (i) is only supportive, to strengthen the committee so that it does not collapse because of a few vacancies.

28. The guiding principle of co-operative law is self-governance by members. Therefore, when vacancies are few and the elected structure is otherwise working, the Registrar must prefer this minimal intervention under clause (i). Only when the situation is more serious, such as a stalemate or complete deadlock, can the Registrar move to stronger measures under clause (ii) or the expression 'one or more authorised officers'.

29. Thus, clause (i) is a preventive safeguard. It ensures that minor vacancies do not stop the functioning of the society. At the same time, it protects the democratic character of the institution by filling those vacancies only with members of the same society.

30. The Registrar, when filling up vacancies by appointing members of the society, must select only those who are eligible to be elected as committee members under the Act, Rules and bye-laws. This flows from the principle that an appointee under Section 77A merely steps into the shoes of an elected member. He cannot enjoy a higher status than one who could be elected. Hence, statutory disqualifications under Sections 73CA, 78, and 78A and similar provisions will apply. For example, Defaulter in

repayment of loans; Conviction of offences involving moral turpitude; Having interest in contracts with the society; Disqualified under bye-laws or under State Government Government Resolutions. If a person is disqualified from being elected, he cannot be inducted by the Registrar under Section 77A.

Clause (ii) of Section 77A(1):

31. Clause (ii) of Section 77A(1) applies when the problem is more serious than a few vacant seats. This happens when the managing committee as a whole cannot function. Examples include a situation where the term of the committee has expired but the new committee has not taken charge, or where there is a deadlock and the committee has ceased to function, or where disputes between groups have paralysed the management. In such cases, the society cannot continue with its regular business through the elected body.

32. To deal with such a situation, the Registrar is empowered to form a small temporary committee of not more than three members from within the society. This ensures that the society continues to be run by its own members, even if on a temporary basis. The idea is that external control should be avoided as far as possible, and preference should always be given to members themselves to manage their affairs.

33. The object of clause (ii) is therefore to prevent a vacuum in administration while maintaining the democratic spirit of co-operatives. It is an intermediate measure, stronger than simply filling up a few vacancies under clause (i), but less drastic than

bringing in outsiders under the expression 'one or more authorised officers'. This step shows the Legislature's intention to keep co-operative societies member-driven, even during a crisis.

34. The interim committee members appointed by the Registrar must also be persons who are qualified to be elected to the committee. The reason is that the Registrar is not creating a parallel structure. He is only making a temporary arrangement until elections are held or disputes are resolved. If disqualified persons are appointed, the legitimacy and legality of the management would collapse. Therefore, restrictions like not being a defaulter, not being removed for mismanagement earlier, or not being under disqualification under Section 73CA are applicable.

'One or more authorised officers' of Section 77A(1):

35. The expression 'one or more authorised officers' of Section 77A(1) is the last and most drastic option. It comes into play only when neither clause (i) nor clause (ii) can work. This is when members of the society are unwilling, unable, or unsuitable to manage the society, or when rival groups are fighting such that no internal committee can function fairly. In such cases, the Registrar is allowed to appoint one or more authorised officers, who may even be outsiders, to run the affairs of the society for a limited period.

36. This power is not meant to displace elected management permanently. It is a temporary remedy, used only to restore stability and prepare the ground for fresh elections. The law also limits the tenure of such administrators, so that the society is not

kept under external control longer than necessary.

37. The purpose of the expression 'one or more authorised officers' is therefore to act as a last safeguard. It ensures that even if the elected committee has collapsed and members are unable to run the society, the business of the society does not stop. But at the same time, it recognises that bringing in outsiders goes against the co-operative principle of self-governance. Hence, this measure is to be used sparingly, and only when all other options fail.

38. In my considered opinion authorised officers are to be appointed only as a last resort, and such appointments must remain free from internal politics of the society. Therefore, while the law does not absolutely prohibit appointment of a minority elected member under the expression 'one or more authorised officers', it is a course that should be avoided except in very rare cases where impartiality and eligibility can be clearly established by way producing unimpeachable documents on record.

39. Read together, these three clauses create a graded system. Clause (i) is for minor problems, clause (ii) for serious but manageable situations, and the expression 'one or more authorised officers' for extreme cases where no other solution is possible. This step-by-step approach shows the Legislature's intention that co-operative societies should, as far as possible, remain in the hands of their own members, and outside control should be exercised only when absolutely necessary.

Legal effect of disqualification of majority members:

40. When most of the elected members of the managing

committee are disqualified, they immediately lose their membership of the committee. From that date, they cannot act as committee members. If only one or two members are left behind, the strength of the committee falls below the required quorum. A committee without quorum is not a valid committee. It cannot hold lawful meetings, pass resolutions, or even co-opt new members. In law, such a committee is treated as non-functional. In other words, the committee has collapsed and is no longer capable of carrying on the affairs of the society.

Applicability of Clause (I):

41. Clause (i) of Section 77A is meant for situations where there are only a few vacant seats, but the committee as a whole is otherwise valid and can function. In such a case, the Registrar may fill those casual vacancies by appointing members of the society. However, where the committee has already fallen below quorum and is incapable of functioning, clause (i) cannot apply. To use clause (i) in such a situation would defeat the legislative intent, because clause (i) presumes the existence of a functioning body, which is not the case once quorum is lost.

Applicability of Clause (ii)

42. Clause (ii) provides a solution for cases where the committee has ceased to function because of resignations, disqualifications, or stalemate. Under this clause, the Registrar is empowered to appoint a small temporary committee of not more than three members from within the society to manage its affairs. This is the correct remedy in cases where the elected committee has

collapsed.

43. The Registrar may, if he considers it proper, include the one or two remaining elected members in this temporary committee. But this is not their right. The decision rests with the Registrar, who has to act in the larger interest of the society. His decision must be guided by fairness, neutrality, and what would best serve the stability of the society. Thus, the proper and primary course when majority members are disqualified is action under clause (ii).

Applicability of the expression 'one or more authorised officers'

44. The expression 'one or more authorised officers' is more drastic. It empowers the Registrar to appoint authorised officers, even outsiders, to manage the society. This clause is intended for exceptional situations where management by society members is either not possible or not desirable. If the remaining minority members belong to one group and their inclusion would disturb neutrality or aggravate factional disputes, the Registrar can bypass them and instead appoint outsiders as authorised officers.

45. However, the expression 'one or more authorised officers' is a last resort. It is not to be used casually. It can be invoked only if clause (ii) is not workable. The legislative scheme shows that the first preference is always to keep the management within the society, and outsiders are to be brought in only where no other option exists.

Legal effect of resignation of majority members:

46. When a majority of the managing committee members

resign, their resignation takes effect from the date it is accepted in law (in most societies, resignation becomes effective when it is tendered and accepted, if required, as per bye-laws). Once the resignations become effective, those members immediately cease to be part of the committee.

47. If only a small number of members remain and quorum is lost, the committee cannot legally function. Without quorum, it cannot hold meetings, pass resolutions, or co-opt new members. In such a case, the elected body comes to an end, just as in the case of disqualification. In law, the committee stands collapsed.

Applicability of Clause (I):

48. Clause (i) of Section 77A is meant for situations where there are only a few vacancies, but the committee as a whole is still valid and functional. For example, if one or two members resign, leaving enough members to meet quorum, then the Registrar can step in and fill those vacancies by appointing society members. However, when a majority resign and quorum is lost, the committee ceases to exist in a valid form. In such cases, clause (i) cannot apply, because there is no functioning body to support.

Applicability of Clause (ii):

49. Clause (ii) of Section 77A stands on a different footing from the expression 'one or more authorised officers'. It expressly provides that when the committee has ceased to function, the Registrar may appoint a small temporary committee of not more than three members from within the society itself. The object is to preserve the principle of member-driven management even in

times of crisis. In this context, if the majority of members have resigned and only one or two elected members remain, those remaining members do not represent the full committee but they still carry the democratic mandate given by the general body at the election. Unlike the expression 'one or more authorised officers', clause (ii) does not demand complete neutrality through outsiders. Instead, it directs the Registrar to look first to the members of the society, including those who are already elected, to manage the affairs of the society temporarily.

50. Therefore, the Registrar may include the minority elected members in the small committee under clause (ii), but not resigned members. Their appointment under this clause does not amount to unfairly elevating one faction, because clause (ii) itself proceeds on the basis that management should remain with society members wherever possible. However, their inclusion is not automatic. The Registrar must examine whether such members are otherwise qualified, and whether their inclusion would help or hinder the smooth functioning of the temporary committee.

51. If the remaining elected members are tainted by disqualification, or their presence would only deepen existing disputes, the Registrar may choose not to include them and may instead appoint other suitable members of the society. But if they are eligible and can contribute to continuity, their inclusion would be in keeping with the spirit of clause (ii). Thus, while the expression 'one or more authorised officers' demands neutrality and usually excludes minority elected members to avoid factional advantage, clause (ii) allows their inclusion as a matter of

discretion, because its focus is on keeping management within the hands of society members until fresh elections are held.

Applicability of the expression 'one or more authorised officers':

52. This clause of Section 77A is not an ordinary power. It comes into play only when the Registrar finds that it is either not possible or not desirable to manage the society through its own members. The law gives this power so that the society does not suffer in situations where member-driven management cannot work. Such situations may arise in different ways. Sometimes, the few members who remain after resignations or disqualifications belong only to one faction. If they are allowed to manage, their presence may increase disputes instead of resolving them. In some cases, no member of the society may be willing to shoulder responsibility. There can also be cases where the atmosphere in the society has become so charged that only a neutral person from outside can safeguard the interests of the members and maintain confidence.

53. In all such situations, the Registrar has the authority to appoint an authorised officer under clause (iii). The authorised officer may be an outsider, and his role is to take care of the day-to-day affairs of the society impartially, until fresh elections are held or normalcy returns. However, this power is not meant to be exercised lightly. The expression 'one or more authorised officers' is a last resort. It should be used only after the Registrar is satisfied that the other options under Section 77A, particularly clause (ii), are not workable. The legislative scheme clearly shows that preference must always be given to keeping control within the

society itself. Only when that becomes impracticable or undesirable, the Registrar can step in with this more drastic measure.

54. The purpose of the expression 'one or more authorised officers' is to maintain neutrality and protect the society during times of crisis. If used without proper reasons, it would undermine the principle of democratic functioning of co-operatives. Hence, before invoking the expression 'one or more authorised officers', the Registrar must record why clause (ii) is not sufficient, and why appointing an outsider is necessary in the interest of justice and fairness.

Amendment deleting the third proviso to Section 77A(1):

55. The Maharashtra Act 28 of 2022, which came into force on 28 March 2022, deleted the third proviso to Section 77A(1). This change has both purpose and effect, which must be understood to decide how the law should now be applied.

56. Earlier, the provision had a third proviso which stated that if no member of the society was willing to work on the committee, the Registrar could appoint one or more authorised officers from outside the society to run its affairs. This meant that even if there was no deadlock or dispute, but simply no member was ready to take responsibility, the Registrar had a clear power to bring in outsiders as administrators. In other words, unwillingness of members itself was enough to trigger appointment of outsiders.

57. By deleting this proviso, the Legislature has deliberately changed the balance. The intention appears to be that the law now

insists more firmly that the society should be managed by its own members, and not by outsiders, except in rare and exceptional cases. Earlier, the Registrar could appoint outsiders just because no member was willing. That easy route is no longer available. Without the proviso, the Registrar must now show stronger grounds, such as breakdown of the committee, litigation, or deadlock, before appointing outsiders. The earlier proviso could sometimes be misused by encouraging members to refuse to serve, thereby giving the Registrar a reason to bring in outsiders. Deleting it closes that loophole. The change highlights that co-operatives must remain member-driven bodies, and State intervention through outsiders must be only a last resort.

58. The consequences of this deletion are important. The Registrar can no longer appoint outsiders only on the ground that members are unwilling. That stand-alone basis has been taken away. Outsiders may still be appointed under the expression 'one or more authorised officers' of Section 77A, but only after showing that clause (ii) or other internal remedies are not workable. Now, before bringing outsiders, the Registrar must record clear reasons, such as collapse of quorum, deep factional disputes, or impossibility of internal management. Superior authorities under the Act will examine more carefully whether the Registrar had proper material to justify appointment of outsiders. If the Registrar cannot show necessity, such appointments can be struck down. If appointments were made after 28 March 2022 relying on the deleted proviso, their validity can be questioned. Even appointments made earlier may be tested on whether the Registrar

acted fairly or misused the discretion.

59. The deletion of the third proviso narrows the circumstances in which outsiders can be appointed. It ensures that societies remain primarily in the hands of their members, in line with the constitutional goal of democratic functioning of co-operatives. Appointment of outsiders is now a measure of last resort, to be justified with strong reasons, and subject to strict judicial control.

Effect of substitution of “administrator” by “Authorised officer”:

60. Before the 2013 amendment, the Section 77A used the term “administrator.” In ordinary understanding, an administrator meant a substitute head of the society, who would step into the shoes of the elected committee and take over full management. The word carried a broad and open-ended meaning, suggesting complete control in place of the elected body. In practice, this led to difficulties. Appointment of administrators often continued for long periods. Instead of being a short-term solution, it became a way of keeping elected committees out of power. There were serious complaints that registrars were misusing this power to displace elected management and keep societies under outside control indefinitely. This was against the very spirit of co-operative democracy.

61. To correct this problem, by Maharashtra Act No. 16 of 2013, the Legislature replaced the word “administrator” with the expression “authorised officer.” The phrase “authorised officer” has a narrower and more controlled meaning. It shows that the officer does not get blanket powers by default. His authority comes only

from what the Registrar specifically authorises. His functions are limited to what is clearly conferred in the order of appointment. Further, he works under the continuous supervision and control of the Registrar, and not as an independent substitute for the committee.

62. The purpose of this change is clear. Instead of outsiders acting like permanent substitutes for the elected body, authorised officers are now only temporary caretakers with clearly defined powers. The very word “authorised” shows that their authority is not unlimited but flows directly from the Registrar, making them accountable to him and, through him, to the law. The co-operative movement is based on member control. The earlier word “administrator” suggested long-term displacement of members. By using “authorised officer,” the Legislature has stressed that outside management must only be temporary. Earlier, registrars could keep societies under administrators for years. This amendment narrows that scope and reduces misuse, ensuring that elected management is restored at the earliest.

63. The authorised officer has only those functions specifically authorised, and always under the control of the Registrar. The law now clearly provides that the maximum term of an authorised officer is six months, without extension. This makes clear that the arrangement is only stop-gap. Under the old provision appointment of an administrator meant a complete takeover. Now, appointment of authorised officers is presumed to be temporary, limited in scope, and only to bridge the gap until elections.

64. From now on, if the Registrar appoints authorised officers but treats them as permanent substitutes for elected committees, such action will not stand judicial scrutiny. The legislative intent is clear: outsiders are to be seen only as temporary caretakers. Democratic management by members is the rule, and authorised officers are the exception. The law expects that elected control should be restored as soon as possible, and outsiders should not remain in charge beyond the statutory limit.

Publishing notice - General rule:

65. Section 77A(1) lays down a clear safeguard. Before passing an order, the Registrar is required to publish a notice on the notice board of the society, invite objections and suggestions from members, and consider them. This procedure ensures that the members are heard and that any decision taken is transparent and fair. It reflects the principle that the Registrar should not take over the management of a society without giving members an opportunity to voice their concerns.

Exception:

66. At the same time, the Legislature has recognised that situations of urgency may arise where waiting for the notice procedure would harm the society. Hence, the second proviso allows the Registrar to dispense with notice in two specific situations (i) where immediate action is required, or (ii) where it is not reasonably practicable to publish notice. This exception must be applied carefully. Notice is the rule, and dispensing with it is the exception. The Registrar must record clear reasons in writing to

show that urgency or impracticability actually existed. Otherwise, his order will not stand in law. Courts have consistently held that unless urgency is genuine, omission to publish notice amounts to violation of fair procedure.

Clause-wise application of exception:

Clause (a): Where, at the first constitution of the committee, some members are not elected. In such cases, urgency is normally not present. A newly formed society can wait for objections and suggestions before appointments are made. However, in exceptional cases, such as when the society urgently needs a committee to operate its bank account or disburse loans, the Registrar may dispense with notice to prevent disruption of essential activities.

Clause (b): Where the term of the committee has expired or elections are held but some vacancies remain. Here too, urgency is usually absent and notice should be published. But if expiry of term results in a risk of vacuum in vital services, like maintenance of housing societies or supply of milk in a dairy society, the Registrar may step in without notice to avoid hardship to members.

Clause (b-1): Where there is a stalemate or the committee has ceased to function and a vacuum is created. This is the clearest ground of urgency. A paralysed committee cannot take decisions, and delay would damage the society's functioning. In such a case, the Registrar is justified in acting immediately without inviting objections.

Clause (c): Where the newly elected committee is prevented from entering office. Here, urgency may arise if rival groups obstruct office-bearers and day-to-day management suffers, such as delay in payments or contracts. To restore working of the society without delay, the Registrar may dispense with notice.

Clause (d): Where a new committee fails to take charge on expiry of the term of the old committee. If this leads to a total vacuum in administration, urgent intervention is justified. But if basic functions continue and no immediate harm is shown, notice should still be published.

Clause (f): Where rival groups both claim to be elected and the matter is before the Co-operative Court. Neutrality is vital here. If both groups are obstructing each other and paralysing the society, the Registrar may act without notice to appoint an impartial caretaker. This prevents misuse of society's assets during pendency of the dispute.

67. From the above analysis, one principle emerges. In routine situations, such as casual vacancies or orderly transition, the requirement of notice must be strictly observed (clauses a, b, d). In urgent or conflict-driven situations, where delay will cause serious harm to the society or its members, the Registrar may dispense with notice (clauses b-1, c, f). But in every case, he must record reasons showing why notice could not be issued. Otherwise, his order would be open to being set aside for arbitrariness.

Parameters to be satisfied by the Registrar before exercising power under clause (ii) or appointing authorised officers under Section

77A(1):

68. (i) The Registrar must first determine whether the situation of the society satisfies one or more of the conditions specified in clauses (1-a) to (f) of sub-section (1).

(ii) The Registrar must record satisfaction that filling casual vacancies under clause (i) is either not possible or not sufficient to restore effective management.

(iii) If some elected members continue, the Registrar must: (a) Verify that they are not disqualified under the Act, Rules, or bye-laws; and (b) Examine whether their inclusion in an interim committee would deepen internal disputes or disturb neutrality.

(iv) Appointment of society members under clause (ii) should be preferred over outsiders to preserve democratic control and continuity of self-governance.

(v) Authorised officers who are not members of the society may be appointed only when internal management is either not possible or not desirable due to 'serious conflict' or unwillingness of members.

(vi) The Registrar must record clear and specific reasons showing why lesser alternatives were not workable and why appointment under clause (ii) or authorised officers was necessary.

(vii) Before appointing any person, the Registrar must satisfy himself about the person's competence, integrity, and understanding of co-operative principles.

(viii) The order must specify that the interim committee or

authorised officer will hold charge only for a temporary period (not exceeding twelve months) and must initiate the election process within 4 to 8 weeks.

(ix) The Registrar must retain supervisory control and issue directions from time to time. He must monitor functioning and, if necessary, replace members or authorised officers under sub-section (4).

(x) Unless urgency or impracticability is shown as explained paragraphs nos. 65 to 67, notice inviting objections and suggestions must be published before passing an order. Dispensing with such notice requires recorded reasons.

(xi) Appointees under clause (ii) or as authorised officers must be impartial and act solely in the interest of the society, not in favour of any faction or group.

69. Factors to determine existence of ‘serious conflict’ under paragraph 68 (v):

(a) When rival groups hold separate meetings of the managing committee or general body and pass conflicting resolutions.

(b) When rival groups attempt to operate the society’s bank accounts separately or issue contradictory instructions to financial institutions.

(c) When one faction prevents the other from entering the office, accessing records, or using society premises, resulting in disturbance of peace or functioning.

- (d) When proceedings are pending before the Co-operative Court under clause (f) of Section 77A(1) regarding the validity of elections or committee composition.
- (e) When committee members boycott meetings, refuse to sign necessary documents, or create deadlock preventing collective decisions.
- (f) When office-bearers (Chairman, Secretary, Treasurer) stop discharging duties due to factional rivalry, causing day-to-day paralysis.
- (g) When rival groups file repeated complaints or representations against each other before the Registrar, police, or government departments, showing breakdown of mutual trust.
- (h) When records, accounts, or minute books are withheld, destroyed, or manipulated by one group to exclude the other.
- (i) When resignations are tendered by a group of members in protest or as part of rivalry, resulting in loss of quorum and inability to function.
- (j) When inclusion of any existing member in interim management is likely to favour one faction and further inflame disputes.
- (k) When ongoing factional conflict harms members' welfare, delays essential services, or endangers society's assets or reputation.

Section 77A(2):

70. This provision says that once a temporary committee or an authorised officer is appointed under Section 77A, they step in to run the society. But their powers are not absolute. They function under the control of the Registrar and must follow the instructions given by him from time to time. This means the Registrar is the supervising authority, and the committee or authorised officer cannot act independently beyond the powers allowed. Within these limits, they have the power to perform, (i) All or any functions of the managing committee. For example, conducting meetings, managing accounts, taking administrative decisions. (ii) Functions of any officer of the society. For example, if the Secretary or Treasurer's post is vacant or paralysed, they can step in to perform those roles. (iii) Any action required in the interest of the society. This is a broad expression, allowing them to take necessary steps to keep the society running smoothly and protect its property, funds, and members' interests.

71. The appointed body acts as a substitute for the elected committee, but only until a new committee is elected and takes charge. The law ensures that outsiders or temporary appointees do not misuse power. Their actions are subject to Registrar's directions. They can take almost every decision needed to protect the society's interest, but they cannot override the basic cooperative principles or act against the society's bye-laws. By keeping the committee/authorised officer under Registrar's control, the law protects members from arbitrary or self-serving actions by temporary managers.

72. Section 77A(2) means that when a temporary committee or authorised officer is appointed, they get full powers to run the society, like the elected committee would. But they are not independent masters. They act under the Registrar's supervision, and their role is only to protect the society's interest until a properly elected committee takes charge.

Section 77A(3):

73. This provision deals with the time period for which a temporary committee or authorised officer can hold charge of a society. Once appointed, they can remain in office only for twelve months from the date they take charge. During this twelve-month period, their main duty is not just to run day-to-day affairs, but to make arrangements for holding fresh elections and constituting a new managing committee. They must also ensure that once a new committee is elected, it can smoothly enter office and take over management. Even in cases falling under clause (f) of sub-section (1), where rival groups both claim to be elected and the Co-operative Court decides which one is valid, the temporary body must hand over to that legally elected committee once the Court gives its decision. The proviso strengthens this by saying in no case can the temporary committee or authorised officer continue beyond twelve months. This upper limit is absolute.

74. The provision makes it clear that the appointment of outsiders or temporary committees is not meant to be a permanent arrangement. It is a stop-gap to prevent a vacuum. Their foremost obligation is to hold elections and restore democratic functioning.

Simply running the society for twelve months is not enough; they must actively take steps to bring in a new elected committee. The proviso puts a strict ceiling of twelve months. Even if elections are delayed or disputes continue, the authorised officer cannot remain beyond this period. This prevents misuse where registrars earlier kept societies under administrators for years. If the Registrar or authorised officer fails to make arrangements for elections within twelve months, courts can intervene and direct immediate elections, as continuation beyond this period is illegal.

75. Section 77A(3) ensures that authorised officers or temporary committees are caretakers, not rulers. Their job is to keep the society functioning while quickly preparing for elections. The law fixes twelve months as the outer limit, and in no case can they overstay. The object is to protect the democratic principle of member-driven management and to prevent indefinite outside control.

Section 77A(4):

76. Section 77A(4) gives the Registrar power to replace or change the temporary management put in place under Section 77A(1). The Registrar can remove or change the entire temporary committee. He can also remove or change some or all of the members of such committee. Likewise, he can remove or change one or more authorised officers appointed under Section 77A(1). This power can be exercised at any time, even before the six/twelve-month period (as specified in the order) is over.

77. The purpose of this power is to keep the temporary

managers accountable. Since they are not elected by the general body, they cannot claim any independent right to continue. They hold office only at the pleasure of the Registrar, subject to law. Circumstances may change after the temporary body is appointed. For example, if members of the temporary committee act with bias, misuse funds, or fail to make arrangements for elections, the Registrar can replace them without waiting for their full term to expire. This ensures that the society is not left in the hands of incompetent or partisan caretakers. The Registrar can step in at once to protect the interests of the society and its members. Though the provision says “at his discretion,” courts interpret this to mean that the discretion must be exercised reasonably, fairly, and for the purpose of securing the society’s interest. Arbitrary or mala fide changes can still be challenged in court.

Section 77A(5):

78. Section 77A(5) deals with the remuneration (payment) of the authorised officers or temporary committee appointed under Section 77A(1). It says that the rules given in Section 78A(2) will apply here as well, with necessary changes. This means the law has not created a new rulebook for fixing their pay. Instead, it borrows the existing system under Section 78A(2).

79. Under Section 78A(2), the Registrar fixes the remuneration of officers or members who are appointed to take charge after removal of a committee. The same method will now apply here. The remuneration and expenses of the authorised officer are to be paid by the society itself, because the officer is managing its affairs

in place of the elected committee. The amount is not arbitrary. It must be reasonable and proportionate to the work done, and subject to rules or directions issued by the State Government.

80. Mutatis mutandis, this Latin phrase means “with necessary changes.” So, while applying Section 78A(2), minor adjustments can be made to fit the context of Section 77A appointments.

81. By linking remuneration to an existing statutory mechanism, the law ensures authorised officers are not overpaid or underpaid. Since the Registrar fixes the remuneration according to a legal framework, the officer cannot demand arbitrary amounts from the society. At the same time, members must realise that when outsiders are brought in, the society has to pay their fees. This creates a natural incentive to avoid collapse of elected committees and to keep democratic functioning alive.

Time frame to conduct election by committee under clause(ii) or authorised officer:

82. At this stage, it is necessary to address an important aspect concerning the exercise of powers by the Registrar under Section 77A. The provision authorises the Registrar to appoint either a small interim committee under clause (ii) or, in exceptional circumstances, one or more authorised officers to manage the affairs of the society. The purpose of this power is not to substitute permanent democratic control with prolonged external management, but only to act as a temporary safeguard until fresh elections are held.

83. It is, therefore, appropriate that whenever the Registrar exercises power under clause (ii) or in appointing authorised officers, the order itself should contain a clear direction to initiate and complete the election process within a defined time frame. In my opinion, a reasonable period to initiate election process would be between four to eight weeks from the date of such order. This would ensure that the society is brought back under elected management at the earliest and prevent misuse of the provision for continuing external control indefinitely.

84. Failure to include such a direction may defeat the very object of Section 77A, which is to maintain continuity of management only until an elected body is put in place. It may also invite allegations of arbitrary or mala fide exercise of power. To prevent such situations, this Court makes it clear that whenever the Registrar invokes clause (ii) or appoints authorised officers, the order must contain a direction to initiate the election process within four to eight weeks.

85. If, despite this judgment being brought to the notice of the Registrar or authorised officer, no such direction is included or acted upon, the aggrieved parties shall be entitled to approach this Court under the provisions of the Contempt of Courts Act for appropriate relief. Such recourse will ensure accountability and reinforce the constitutional and statutory mandate that co-operative societies must remain democratically governed institutions.

Findings:

86. The petitioners have argued that the Government Resolution dated 3 January 2024, which reduced the number of managing committee members to 5 and fixed the quorum at 3 for societies with less than 35 members, should be treated as retroactive and applied to their case. Their submission is that since Section 154-B-19 empowers the State Government to decide the strength of the committee “from time to time,” the 2024 resolution should govern even a committee that was elected earlier in January 2022.

87. This submission needs careful consideration. The structure of Section 154-B-19 is important. Sub-section (1) empowers the State Government to fix the number of members of the committee by notification or special order. Sub-section (2) provides that a committee stands constituted once two-thirds of the required strength has been elected. Sub-sections (3) and (4) fix the tenure of elected members at five years and deal with filling of casual vacancies by co-option. The combined effect is that the strength of the committee and its quorum are determined at the time of its constitution. Once elections are held and results declared, the committee is complete in law under the framework prevailing on that date.

88. The Government Resolution dated 3 January 2024 was issued under Section 154-B-19. However, it does not contain any language suggesting that it would apply retrospectively. The settled rule of interpretation is that unless the Legislature or the authority expressly provides for retrospective effect, every notification is

presumed to be prospective. In the present case, the committee was elected in January 2022 with 8 members. That election was valid and complete under the law and bye-laws then in force. The subsequent reduction in committee strength in 2024 cannot retrospectively undo or modify what was validly constituted in 2022.

89. There is a distinction between laws that are clarificatory and those that bring about a substantive change. A clarificatory law may operate retroactively, that is, it may apply even to situations that arose earlier, because it only explains what the law always meant. For example, if there was doubt about how to calculate quorum, and the Government issued an order clarifying the method of calculation, such clarification could apply to past committees also, since it merely explains an existing rule.

90. The Government Resolution dated 3 January 2024 does not fall in this category. It does not clarify an earlier rule but instead introduces a new standard for societies with less than 35 members. Earlier, such societies were governed by the model bye-laws which prescribed 8 members for the managing committee and a quorum of 5. The 2024 resolution departs from that framework and lays down a fresh rule that only 5 members are required, and quorum is 3. This is a substantive change, not a clarification.

91. The distinction is important because substantive changes are presumed to operate prospectively, that is, from the date they are issued, unless the law or the notification expressly states that they will apply to past situations as well. No such intention is expressed

in the 2024 resolution. It does not say that it will apply to committees already constituted or to elections already held. Therefore, the rule of interpretation requires it to be read as prospective only.

92. Accepting the petitioners' argument of retroactive application would amount to rewriting history. It would validate committees which were invalid under the law at the time of their constitution, and it would alter rights and obligations that had already crystallised. Such an approach would go against settled principles of certainty and stability in law. Hence, the 2024 resolution must be held to be a prospective measure, intended to govern committees formed after its date and not those elected earlier.

93. When the petitioners' committee was elected in 2022, the legal requirement was that the committee should have 8 members, and the quorum was 5. That position continued to govern their functioning. After four members resigned, the committee was reduced to 4 and thus fell below quorum. The later resolution of 2024, which allowed a smaller committee and reduced quorum, cannot be invoked to retrospectively validate the petitioners' reduced committee. To accept the petitioners' argument would mean altering rights that had already crystallised and unsettling the legal framework under which the committee was elected. Such an interpretation would run contrary to the settled rule that new norms apply only for the future unless the authority has expressly directed otherwise.

94. The Government Resolution dated 3 January 2024 is

prospective. It applies to committees elected after its issue. It cannot be used to validate or alter the composition or quorum of a committee that was constituted in January 2022 under the earlier bye-laws. The petitioners' reliance on retroactive operation is misplaced and cannot be accepted.

95. In the present case, the record shows that the managing committee originally consisted of 8 members. Out of these, 4 members resigned. As a result, the strength of the committee was reduced to only 4 members. Under the bye-laws, the quorum required for a committee of 8 members is 5. Once the number of members fell below 5, the committee was without quorum.

96. A committee which does not have quorum cannot legally conduct its meetings. It cannot take valid decisions, and it certainly cannot exercise important powers such as co-opting new members. Quorum is not a technicality; it is the minimum legal requirement to ensure that decisions of the committee represent the collective will and not the will of a small group or faction.

97. When the committee was reduced to 4 members, it was incapable of transacting business in the eyes of law. Any resolution passed by such a body would be void. The attempt of the petitioners to co-opt additional members, therefore, suffers from a basic legal defect. Since the committee had already lost its quorum, it was no longer competent to co-opt. The law treats such co-option as invalid, because a collapsed committee cannot revive itself by acting without the necessary quorum.

98. The principle is well settled that once quorum is lost, the committee effectively ceases to exist as a functioning unit. It cannot continue to act on the assumption of authority it no longer has. Therefore, the co-option relied upon by the petitioners cannot be recognised as lawful, and the Registrar was justified in refusing to treat it as valid.

99. The learned Senior Advocate appearing for the petitioners argued that the Registrar, while exercising powers under Section 77A(1), was bound to publish a notice inviting objections and suggestions before taking any action. According to him, this safeguard is mandatory and non-compliance would vitiate the entire process.

100. However, as rightly pointed out on behalf of the respondents, the factual position on the date when proceedings under Section 77A were initiated was that only four elected members remained in office out of a managing committee of eight members. With half of the committee having resigned, the strength of the committee had fallen below the quorum of five which was required for valid functioning. Once quorum was lost, the managing committee ceased to operate in law. It could neither hold legal meetings nor take financial or administrative decisions necessary for the day-to-day functioning of the society.

101. In my opinion, such a situation squarely falls within clause (b-1) of Section 77A(1), which provides for intervention by the Registrar where the committee has ceased to function and a vacuum is created in the management. When there is such a

vacuum, any delay in taking steps would paralyse the society and cause serious prejudice to the members. This is precisely the kind of urgent circumstance where the statute itself permits the Registrar to dispense with the publication of notice.

102. Therefore, in the facts of the present case, the Registrar was justified in exercising his discretion to proceed without inviting objections and suggestions, since immediate action was required to protect the interests of the society and ensure continuity of administration.

103. It was urged on behalf of the petitioners that in the situation where only four members of the managing committee were functioning, the proper course for the Registrar was not to proceed under Section 77A, but instead to place the issue before the General Body of the society. According to the petitioners, the General Body could have ratified the decisions of the four remaining members and also taken steps to fill the vacancies, thereby continuing the democratic functioning of the society.

104. This submission, however, cannot be accepted. The General Body is undoubtedly the supreme authority in a co-operative society, but its role is essentially policy-making and supervisory. The day-to-day management and execution of decisions is vested in the managing committee. Once the committee fell below quorum, it lost its legal capacity to function.

105. Further, Section 77A itself lays down a complete framework for situations where the managing committee has collapsed or become incapable of functioning. The Legislature has consciously

entrusted the responsibility to the Registrar to ensure continuity of management in such cases. The provision sets out a graded system of remedies. First, the Registrar may appoint members of the society to fill vacancies. If that is not sufficient, he may constitute a small interim committee of not more than three members from within the society. Only as a last resort, when neither of these options is workable, can the Registrar appoint authorised officers, even from outside the society.

106. This careful design reflects the legislative intent that the society should not remain without management, but at the same time, democratic control should be preserved as far as possible. It is not left to the discretion of the General Body to ratify or validate the actions of a committee that has already lost quorum and thereby ceased to exist in law. If such a course were permitted, it would effectively bypass Section 77A and reduce its safeguards to a dead letter.

107. The statute provides a specific remedy, that remedy alone must be followed. It would also defeat the legislative balance between democratic functioning and uninterrupted management which Section 77A seeks to maintain. Therefore, once the committee had lost quorum and a vacuum was created, the proper course was the statutory mechanism under Section 77A. Therefore, while the General Body continues to retain its overall authority, in a case where the committee has collapsed below quorum, the proper and only course is action under Section 77A.

108. The learned Senior Advocate for the petitioners argued that instead of appointing an outsider as authorised officer, the Registrar ought to have appointed the remaining minority elected members by exercising power under clause (ii) of Section 77A. This submission has some force. The scheme of Section 77A shows that preference should be given to members of the society itself, and outsiders can be brought in only as a last resort. Therefore, if the remaining elected members are not disqualified under the Act and if their inclusion would not aggravate the existing dispute, then the Registrar is expected to consider their appointment in preference to outsiders.

109. In the present case, however, the order passed by the Registrar on 26 November 2024 under Section 77A does not indicate that any enquiry was made on these aspects. There is no finding as to whether the petitioners were free from disqualification, nor any consideration as to whether their presence would deepen the factional conflict. The absence of such inquiry weakens the justification for directly appointing an outsider as authorised officer.

110. Ordinarily, in such a situation, the proper course for this Court would be to remit the matter back to the Registrar for fresh consideration of these issues. However, in the present case, such remand would cause further delay. The society has already been under the control of an authorised officer since 26 November 2024 and has not been managed by its elected representatives. Sending the matter back now would only prolong the period without an elected committee and postpone the process of restoring

democratic governance.

111. In my opinion, therefore, the proper course in the present facts is not to unsettle the appointment already made, but to ensure that elections are held without any further delay. The authorised officer presently in charge shall be directed to initiate the election process within two weeks from the date of this order so that the society may be placed under the control of a duly elected managing committee at the earliest.

112. Hence I pass following order.

(i) The Writ Petition stands dismissed.

(ii) However, in order to ensure early restoration of democratic functioning of the respondent No.4 – Society, it is directed that respondent No.11 – Authorised Officer shall initiate the process of holding elections of the managing committee of respondent No.4 – Society within a period of two weeks from the date of this order, and shall complete the same in accordance with law at the earliest.

(iii) No order as to costs.

(AMIT BORKAR, J.)