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

## WRIT PETITION NO.16085 OF 2025
## WITH
## WRIT PETITION NO.16087 OF 2025
## WITH
## WRIT PETITION NO.16089 OF 2025



1. **Suresh Agarwal**, Age 59 years,
   R/at Flat No.A-1104, Opp. Majas Dept.,
   Splendor Complex, JVLR,
   Andheri (East), Mumbai 400 060

2. **Jagdish Shetty**, Age 48 years,
   R/at Flat No.D-2504, Opp. Majas Dept.,
   Splendor Complex, JVLR,
   Andheri (East), Mumbai 400 060

3. **Pawan Kumar Sharma**, Age 47 years,
   R/at Flat No.E-1407, Opp. Majas Dept.,
   Splendor Complex, JVLR,
   Andheri (East), Mumbai 400 060

4. **Anita Pathak**, Age 58 years,
   R/at Flat No.C-403, Opp. Majas Dept.,
   Splendor Complex, JVLR,
   Andheri (East), Mumbai 400 060

5. **Adarsh Singh**, Age 44 years,
   R/at Flat N0.D-1004, Opp. Majas Dept.,
   Splendor Complex, JVLR,
   Andheri (East), Mumbai 400 060

6. **Ritu Bhatnagar**, Age 54 years,
   R/at Flat No.C-2604, Opp. Majas Dept.,
   Splendor Complex, JVLR,
   Andheri (East), Mumbai 400 060

7. **Arvind Gangoly**, Age 61 years,
R/at Flat No.C-208, Opp. Majas Dept.,
Splendor Complex, JVLR,
Andheri (East), Mumbai 400 060

8. **Munindar Kumar Verma**, Age 51 years,
R/at Flat No.G-2504, Opp. Majas Dept.,
Splendor Complex, JVLR,
Andheri (East), Mumbai 400 060

9. **Triveni Pichikala**, Age 62 years,
R/at Flat No.C-2005, Opp. Majas Dept.,
Splendor Complex, JVLR,
Andheri (East), Mumbai 400 060

10. **Prashant Karnik**, Age 66 years,
R/at Flat No.C-1905, Opp. Majas Dept.,
Splendor Complex, JVLR,
Andheri (East), Mumbai 400 060 ... **Petitioners**

**V/s.**

1. **Sudhir Agarwal**,
Adult, Indian Inhabitant
R/at Flat No.B-2201, Opp. Majas Dept.,
Splendor Complex, JVLR,
Andheri (East), Mumbai 400 060

2. **Splendor Complex CHS Limited**,
through the General Body
CTS 1, Majas Village, J.V. Link Road,
Jogeshwari (East), Mumbai 400 060

3. **Kailash Kumar Singh**,
Presiding / Returning Officer,
Address – 'F' Wing, Basement Office,
Splendor Complex CHS, CTS 1,
Majas Village, J.V. Link Road,
Jogeshwari (East), Mumbai 400 060 ... **Respondents**

Mr. Atul Damle, Senior Advocate with Mr. Aniket S. Patil for the petitioners.

Mr. Mohit Bhardwaj for respondent No.1.

Mr. Anit Anekar with Mr. Siddhant Sawhney i/by Auris Legal for respondent No.2.

Smt. V.R. Raje, AGP for respondent No.3-State in WP/16085/2025.

Mr. B.B. Dahiphale, AGP for respondent No.3-State in WP/16087/2025.

Smt. S.D. Chipade, AGP for respondent No.3-State in WP/16089/2025.

CORAM : AMIT BORKAR, J.

RESERVED ON : DECEMBER 1, 2025

PRONOUNCED ON : DECEMBER 5, 2025

JUDGMENT:

**1.** All these petitions arise from the same set of facts and raise the same legal issues. It is therefore appropriate to decide them together by a single judgment.

**2.** These petitions question the order of the Cooperative Appellate Court dated 15 November 2025. The Appellate Court partly confirmed the order of the Cooperative Court and directed that the managing committee shall not convene any meeting or pass any resolution till the dispute is finally decided or fresh elections are held, whichever event occurs earlier.

**3.** The facts according to disputant may be stated as follows. Respondent No.1 filed Dispute No. 342 of 2024. He seeks a declaration that the managing committee elected for the term

2022 to 2027 of respondent No.11 society ceased to be validly constituted from 4 August 2024. This claim is based on the resignation of seven members on 4 August 2024. He seeks a further declaration that the strength of the managing committee must always be maintained at the sanctioned strength of 19 members. He also seeks a declaration that the strength must not fall below two third of 19 namely 13, at any point of time during the tenure. He submits that if the strength falls below this minimum, a legal stalemate occurs. According to him, such a situation amounts to a breakdown in the working of the committee and creates a vacuum in the management, which can be rectified only through an election. The disputant, Shri Sudhir Agrawal, is a member of respondent No.11 society. He had also offered himself as a candidate for the committee election for the term 2022 to 2027. The petitioners before this Court are the elected managing committee members. Opponent No.12 is the Presiding and Returning Officer appointed for the co-option meeting proposed to be held on 14 September 2024. Elections for constitution of the managing committee of respondent No.11 society for the term 2022 to 2027 were held for 19 posts. In that election, only 18 members were elected including the present petitioners. One committee member, Shri Ajay Chavan, resigned. The committee accepted his resignation in its meeting held on 10 September 2023. No further steps were taken to fill that vacancy by co-option or nomination. Out of the remaining 17 members, seven members tendered their resignation on 4 August 2024. The petitioners addressed an email to the members of respondent No.11 society on

20 August 2024. In that email they admitted that only 10 members remained on the committee and that they intended to continue to function. This admission clearly shows that the committee accepted the resignations tendered by the seven members. Even otherwise more than 30 days had elapsed since the resignations were tendered. Under Bye law 130 the resignation takes effect on expiry of one month. The seven members are not participating in the work of the society or attending meetings. Their resignations have therefore become effective in law. On 6 September 2024 the petitioners and the Presiding Officer gave notice that two members from the open category and one member from the reserved category would be co-opted on 14 September 2024. At that time the committee consisted of only 10 members. The sanctioned strength is 19. The minimum lawful strength of 13 was not available. In such a situation, the committee lacked validity in its constitution. A committee which is not validly constituted cannot convene any meeting. Any process of co-option undertaken by such a body cannot stand in law.

4. According to disputant, co-option is not an election. It is only a step taken in a committee meeting. Co-option was proposed for only three posts although the vacancies were eight. This renders the meeting notice defective. Rule 74 of the Maharashtra Cooperative Societies (Election to Committee) Rules 2014 prescribes that not more than one third of the committee strength can be filled by co-option. On a strength of 19, the permissible co-option cannot exceed the limit fixed under the Rules. Eight vacancies cannot be filled by co-option. Even if the vacancies

arising from the seven resignations are treated as casual vacancies under Section 154B-19(4) of the Act and Rule 74, the steps taken by the petitioners fall foul of the statutory scheme. Only two members were proposed to be co-opted though seven posts had fallen vacant. The seven members who resigned have stopped attending meetings. This has created a clear stalemate in the functioning of the committee.

5. There are eight vacancies in the managing committee. The petitioners informed the Registrar only about three vacancies. The committee now has only 10 members. The legal requirement of the committee strength is not met. Such a body cannot claim to be validly constituted. A committee which is illegal in its constitution cannot proceed to co-opt new members.

6. The Trial Court issued show cause notices. The opponents appeared through their Advocate and filed replies opposing the applications for interim relief. Their defence can be stated in brief. They submit that elections to the managing committee were held on 11 December 2022. Eighteen members were elected. As per Section 154B-19 of the Act, a minimum of 13 members is required for a valid constitution. According to them, the committee was validly constituted on the date of its formation.

7. On 25 June 2023, Shri Ajay Chavan, who represented the VJNT category, tendered his resignation. The committee accepted it and informed the Deputy Registrar. Shri Alok Agarwal forwarded an email containing a group resignation. The opponents contend that the bye laws do not contemplate submission of group

resignation or submission by one member on behalf of others. The individual resignation of Shri Alok Agarwal dated 4 August 2024 and the individual resignation of Shri Gautam Das communicated through email on 10 August 2024 were considered by the committee. In its meeting dated 21 August 2024, the committee accepted the resignations of Shri Alok Agarwal and Shri Gautam Das. The committee rejected the common group resignation on the ground that such a mode is not recognised under the bye laws. The society thereafter submitted an application to the Ward Election Officer on 28 August 2024 for filling casual vacancies in the general and VJNT categories. On 6 September 2024, the Ward Election Officer appointed Shri Kailash Singh, respondent No.12, as the authorised officer to conduct the meeting for filling these vacancies. Acting on this order, the Secretary issued notice for convening the meeting with the permission of the authorised officer. The opponents submit that this process forms part of the election mechanism and cannot be interdicted before the declaration of result.

8. The Trial Court considered the pleadings, the material placed on record and heard both sides. It rejected the first interim application at Exhibit 5. It partly allowed the second and third interim applications at Exhibits 38 and 57. The Cooperative Court partly granted relief to the disputant by restraining opponent Nos.1 to 11 from discussing or passing any resolution for his expulsion. The disputant filed Appeal from Order No.30 of 2025 challenging the refusal to grant other interim reliefs sought under clauses (a), (b) and (c), as well as the observations in paragraphs

31, 32 and 53 of the Trial Court's order. Opponent Nos.1 to 10 filed Appeal from Order No.32 of 2025 challenging the restraint imposed on conducting the meeting scheduled on 25 January 2025 as per the notice of 17 January 2025. The disputant filed a cross objection supporting the order to the extent it granted him protection.

**9.** The disputant also filed Appeal from Order No.53 of 2025 challenging the order rejecting Exhibit 5.By the impugned judgment, the Appellate Court dismissed Appeal from Order Nos.32 and 52 of 2025. It partly allowed Appeal from Order Nos.30 and 53 of 2025. It restrained the managing committee from conducting any meeting of the society or passing any resolution till disposal of the dispute or till fresh elections are held, whichever occurs earlier. Aggrieved by these directions, opponent Nos.1 to 10 have filed the present writ petitions.

**10.** Mr. Damle, learned Senior Advocate for the petitioners, submitted that the sanctioned strength of the managing committee is 19. Out of these, 14 seats fall in the general category, two are reserved for women, one each is reserved for the SC or ST category, the OBC category, and the VJ or NT or SBC category. In the election held on 11 December 2022, 18 candidates were elected. One reserved seat remained vacant since no candidate had contested. On 25 June 2023, Shri Ajay Chavan, elected from the VJNT constituency, tendered his resignation. On 4 August 2024, an email from the account of Shri Alok Agarwal was received, stating that seven members had collectively resigned. On 20 August 2024, the Manager of respondent No.11 society pointed out that group

resignation is not recognised under the bye laws and that each member must tender an individual resignation. Consequently, only Shri Alok Agarwal and Shri Gautam Das submitted individual resignations. On 21 August 2025, the committee accepted the resignations of these two members and rejected the purported group resignations for non compliance with the bye laws. As a result, the strength of the committee stood reduced from 17 to 15. On 28 August 2024, respondent No.11 society submitted an application to the Ward Election Officer seeking to fill casual vacancies in the general and VJNT categories. On 30 August 2024, five members whose group resignations had been rejected tendered individual resignation letters. On 6 September 2024, the Ward Election Officer appointed Shri Kailash Singh as the authorised officer for filling the said vacancies. On the same day, notice was issued for a meeting of the managing committee to be held on 14 September 2024. On 9 September 2024, respondent No.1 filed a dispute alleging that the committee lacked quorum and sought a stay of the meeting for filling the casual vacancies. The Cooperative Court declined to grant ad interim relief. The meeting was held on 14 September 2024. Two out of three casual vacancies were filled. One reserved seat remained vacant due to the absence of a suitable candidate. Thus, the strength of the committee increased from 15 to 17. On 29 September 2024, the five individual resignations dated 30 August 2024 were accepted at the committee meeting. As a result, the strength of the committee reduced from 17 to 12. On 3 October 2024, the society informed the Deputy Registrar that seven vacancies had arisen as

on 29 September 2024.

**11.** Mr. Damle relied on Sections 154B-19, 154B-20, 154B-21 and 154B-22 of the Act. He submitted that till members belonging to reserved categories are elected under Sections 154B-20 and 154B-21, such reserved seats cannot be counted when computing the strength of the committee for determining quorum. According to him, the quorum for conducting meetings of the managing committee would therefore be 12 as per Section 154B-22. He submitted that under the bye laws, a resignation becomes effective only upon acceptance or after a period of 30 days from the date of submission. On this basis, he submitted that on the date of filing the dispute, namely 9 September 2024, the committee strength was 17. It was reduced to 12 only on 29 September 2024. He contended that since the dispute was never amended, the Appellate Court could not have granted interim relief on the basis of facts that did not find place in the pleadings. According to him, even assuming the strength had reduced to 12 on 29 September 2024, the quorum requirement under Sections 154B-19, 154B-21 and 154B-22 continued to be satisfied. He therefore submitted that the Appellate Court erred in restraining the committee from holding its meetings till disposal of the dispute or fresh elections. He prayed that the impugned orders be set aside.

**12.** In reply, Mr. Bharadwaj, learned Advocate for respondent No.1, submitted that the dispute has been instituted because from 4 August 2024, or from any subsequent date as asserted by the petitioners, the managing committee for the term December 2022 to December 2027 consists of only 10 elected members. These 10

are the members whose names were declared elected on 11 December 2022 by the Returning Officer in an election conducted for 19 sanctioned seats. He submitted that the principal relief sought in the dispute is a declaration that these 10 members do not constitute a validly formed committee as required under Section 154B-19. He argued that statutory compliance is absent and courts cannot permit continuance of such a situation. According to him, when about half the committee compels the remaining half to resign, and those members resign by making serious allegations, it strikes at the democratic functioning of the society and nullifies the mandate granted by the general body. He submitted that the Cooperative Department and Registrar determine the sanctioned strength of the managing committee, which in the present case is 19. The number of members who are actually elected determines whether the committee stands validly constituted. No party is entitled to unilaterally reduce this statutory strength to suit its convenience. The legal concept of constitution of a committee flows from the fixed statutory strength. Such strength cannot be altered by judicial interpretation.

**13.** He further submitted that Section 154B-19(2) requires that more than two third of the sanctioned strength must be elected and must continue throughout. For a strength of 19, more than two third means 13 members. This applies even if 18 members were elected. The expression “more than two third” used in the provision cannot be diluted to mean two third. A committee with only 12 members can never satisfy the requirement of two third or

more. He submitted that this requirement applies for the entire tenure and reflects the legislative intent that the committee should function at its full or near full strength. This ensures democratic administration according to law. According to him, the requirement of more than two third refers only to elected members and does not include nominated or co opted persons. Section 154B-19(2) uses the expression “elected”. This interpretation is also supported by Rule 74 of the Election Rules, which limits co option to one third of the sanctioned strength. The statutory scheme clearly separates elected members forming more than two third and co opted members forming at most one third. He submitted that unless the managing committee is validly constituted, the concept of quorum does not arise. Vacancies may occur for various reasons and not only due to resignation. He pointed out that bye law 130 does not empower the committee to reject resignations. Under this bye law, a resignation is either accepted or it takes effect automatically on expiry of 30 days, irrespective of any communication rejecting it.

**14.** He relied on Section 73 which provides that the management of a society shall vest in a committee constituted in accordance with the Act. This indicates that constitution is for the entire tenure. He submitted that the society cannot be run only on the basis of a bare quorum for meetings. He argued that if reserved seats are excluded from constitution, then out of 13 or 14 required for valid constitution, only 9 may remain, which would be less than half of the sanctioned strength. Such a situation is not contemplated by law. He asserted that while the Act provides

consequences for lack of constitution, it does not provide consequences for occasional lack of quorum. Constitution and quorum are therefore distinct concepts and cannot be interchanged. He referred to Section 77A, where the word "constitution" is used in three places. This confirms that constitution has relevance even after declaration of election results. The section refers to failure to elect members at the first constitution, failure to elect the full committee, and stalemate in constitution. Each of these situations can occur after elections are declared. This shows that constitution is not a one time event limited to the date of election result. He submitted that Section 78 also recognises the concept of stalemate in constitution. It clarifies that stalemate may occur due to resignation, disqualification or otherwise. According to him, "otherwise" includes a situation where a large number of members stop functioning. He submitted that this demonstrates that a committee falling below two third strength at any point during the tenure leads to stalemate. If constitution were relevant only on the date of declaration of results, several statutory provisions would be rendered meaningless.

**15.** He invited attention to the first proviso to Rule 74, which provides that at any time during the tenure, the number of nominated members shall not exceed one third of the total strength. This indicates that the remaining more than two third must always consist of elected members. He submitted that the expression "at any time during the tenure" confirms that constitution must remain intact throughout the term. He submitted

that Section 154B-19(1) provides that the committee shall consist of such number of members as decided by the competent authority. This shows that the normal rule is that all seats must remain filled. For the present society, 19 seats are sanctioned. Rule 74 as amended restricts nomination to one third. If the number of vacancies exceeds this limit, then the committee cannot reach the required strength and there is stalemate under Section 77A(1)(b-1). If an alternative interpretation is accepted, then unlimited vacancies could be filled by co-option, making the election process meaningless. He submitted that Section 154B-19(2) grants a limited relaxation to the full strength requirement by allowing the committee to be treated as constituted even with more than two third elected members. This does not permit constitution to fall below two third at any time. The word “stand constituted” signifies continuity of constitution throughout the tenure till the strength falls below the statutory threshold. If the strength reduces below two third after elections, the committee ceases to remain validly constituted. Co option cannot cure this defect because of the one third ceiling in Rule 74. He submitted that reading the provision otherwise would permit functioning of a committee even with a single member which would be contrary to legislative purpose.

**16.** He placed reliance on Section 73AAA(1), which requires the committee to ordinarily consist of full strength. Under subsection (5)(a), if full strength cannot be achieved at the time of election, then two third of the strength is treated as valid constitution. He submitted that this relaxation cannot apply after the election. Thus, reduction to two third after elections does not preserve

validity of constitution. He argued that constitution signifies the legal existence of the committee. Once the committee ceases to be constituted, quorum or co-option cannot be considered. He submitted that the Act treats constitution and quorum differently. Sections 154B-20 and 21 do not permit a society to treat reserved seats as vacant except where no nomination is received. He submitted that the petitioners are attempting to treat seats as vacant in a manner contrary to the statute. He submitted that Section 154B-22 only states that unfilled reserved seats shall not be counted for determining quorum. The section does not state that such seats shall not be counted when determining constitution. He submitted that if the Legislature intended that reserved seats would not be counted for determining constitution, it would have expressly stated so in Section 154B-19 or by using a non obstante clause in Section 154B-22. The Court cannot read into the statute a meaning that does not exist. He submitted that the term vacancy in Section 154B-19(4) and Rule 74 includes resignations. He argued that what matters is whether a person actually continues to work. A committee that exists only on record has no meaning in the functioning of the society. He submitted that the petitioners themselves wrote to the five members on 28 August 2024 asking them to submit individual resignations so that they could be accepted. On 30 August 2024, those members submitted individual resignations, clearly stating that they had resigned on 4 August 2024. According to him, once individual resignations were submitted, all seven resignations stood validly accepted at the latest on 30 August 2024, before the dispute was filed. He

submitted that when all seven members signed the resignation letter, it cannot be said that only two resignations could be accepted. Bye law 130 does not prohibit multiple resignations in a single communication. It does not grant the committee power to reject resignations. Under the bye law, resignations must either be accepted within 30 days or they become effective automatically. The 30-day period expired on 3 September 2024, before the dispute was filed. In support of his submissions, Shri Bharadwaj relied on the judgment of this Court in *Vijay Lakhi and Others versus Minister of Cooperation and Others, 2025 SCC OnLine Bom 3657*.

**17.** The controversy concerns whether the managing committee of respondent No.11 society remained validly constituted after certain resignations. The legal questions focus on Section 154B-19(2) and Section 154B-22 of the Maharashtra Cooperative Societies Act and Rule 74 of the Maharashtra Cooperative Societies (Election to Committee) Rules 2014. Both sides advanced contrasting readings. The petitioners say the committee met the statutory threshold and could act. The disputant says the committee fell below the statutory threshold and ceased to be validly constituted. The Court must decide the legal effect of vacant reserved seats, the effect of resignations, and the limits on co-option.

**Issues.**

**18.** The issues for decision are these.

(a) Is the constitution of the managing committee to be tested

only at the moment of declaration of result or at every point during the tenure?

(b) How are reserved seats to be treated for purposes of constitution and for quorum; in particular, what is the scope of Section 154B-22?

(c) What is the role and limit of co-option under Rule 74 when vacancies arise during the tenure?

(d) Applying the law to the facts before the Court, did the managing committee remain validly constituted after the sequence of resignations?

**Statutory scheme.**

**19.** For deciding the issues raised in these petitions, it is necessary to reproduce Section 154-B-19, Section 154-B-22 and rule 74 of MCS Election rules 2014. The said provisions read as under:

> "**154-B-19. Constitution of Committee.**— (1) Committee shall consist of such number of Members as may be decided by the State Government by notification or special order, from time to time.
>
> (2) The Committee of the society shall stand constituted on the date of declaration of result of election to the Committee by returning officer where more than two third of the Committee Members of the strength as may be decided by the Registrar, from time to time, have been elected: Provided that, in case two third is a fraction, it shall be rounded off to next higher number.

(3) The term of the office of the elected Members of the Committee and its office bearers shall be five years from the date of first meeting of newly constituted Committee and the term of the office bearers shall be co-terminus with the term of the Committee. [Provided that, if the election to the Committee of the society could not be held for the reason not attributable to the members of the Committee of such society, the existing members of the Committee shall be deemed to have been continued till the new Committee is duly constituted.]

(4) Any casual vacancy in the Committee may be filled by co-option and term of the co-opted Member shall be co-terminus with the term of the Committee.

**154-B-22. General provisions for strength of the Committee for quorum**.— Till the time the Members of reserved categories are not available or elected to fill the reserved seats as provided in Sections 154-B-20 and 154-B-21, such reserved seats shall not be counted for strength of managing Committee for composition of quorum for conducting its meetings.

**Rule 74. Casual vacancies how to be filled in**.— In the event of vacancy occurring on account of death, resignation, disqualification or removal of the member of a society or through such a member becoming incapable of acting prior to the expiry of his term of office or otherwise, the Chief Executive officer of the Society shall forthwith communicate the occurrence of such vacancies to the SCEA and the vacancy shall be filled as soon as conveniently, according to the provisions of the Act. The person so elected or co-opted or, as the case may be, nominated shall hold office so long only as the member of the committee in whose place he is elected, is co-opted or, as the case may be, nominated would have held it, if the vacancy had not occurred."

**20.** Section 154B-19(1) states that every managing committee must have the number of members decided by the State Government. This number is fixed through a notification or order. Once fixed, it becomes the sanctioned strength of the committee. The society cannot alter it. The managing committee must, as far as possible, function with its full sanctioned strength. This ensures proper representation and accountability.

**21.** Section 154B-19(2) then provides the rule for deciding when a committee can be said to be "constituted". The committee is treated as constituted on the day the election result is declared, provided more than two third of the sanctioned strength is elected. If the calculation of two third leads to a fraction, the figure must be rounded up to the next higher whole number. This clause fixes an essential requirement. A committee must always have at least more than two third of its sanctioned strength as elected members. This protects the democratic mandate. It prevents a small group from controlling the society.

**22.** Section 154B-19(3) fixes the tenure of the committee for five years. This tenure starts from the first meeting of the newly constituted committee. The committee elected by the members is expected to serve the full term unless lawfully dissolved. A proviso ensures that if elections cannot be held for reasons not attributable to the committee, the existing committee continues until a new committee is elected. This provision avoids a vacuum in administration.

**23.** Section 154B-19(4) allows casual vacancies to be filled by co-option. This applies when a vacancy arises due to resignation, death or disqualification. But the term of a co-opted member ends with the term of the committee. The law uses co-option only as a temporary measure and not as a substitute for election. Rule 74 confirms this by limiting co-option to one third of the sanctioned strength.

**24.** Section 154B-22 deals with a separate situation. It applies only when reserved category seats remain vacant because no candidate from that category is available or elected. In such a case, the law states that those reserved seats will not be counted for deciding quorum of meetings. This is a practical safeguard. It prevents the committee from being paralysed simply because no candidate came forward for a reserved seat. This exemption is narrow. It applies only to quorum and not to the constitution of the committee.

**25.** When all these provisions are read together, the legal position becomes clear. Section 154B-19 fixes the sanctioned strength and the minimum number of elected members needed for a valid constitution. This is more than two third of the sanctioned strength. This threshold applies for the entire tenure. If the number of elected members falls below this threshold at any time, the committee ceases to be validly constituted. The law treats such a situation as a “stalemate”, which is recognised in Sections 77A and 78. When stalemate occurs, the administration cannot continue as usual and the Registrar must intervene.

**26.** Section 154B-22 does not dilute the requirement of more than two third. It only ensures that the committee can hold meetings even when reserved seats remain vacant due to lack of candidates. It does not say that reserved seats should be excluded while deciding whether more than two third of the committee is elected. If that was intended, the Legislature would have said so directly. It did not.

**27.** Rule 74 also plays an important part. It limits co-option to one third of the sanctioned strength. This means co-option cannot be used to make up for a large number of vacancies. It ensures that the committee continues to be run mainly by elected members. Co-option is to maintain stability, not to replace the election mandate.

**28.** Section 154B-19 and Section 154B-22 must be read in a manner that gives effect to both the intention of the Legislature and the practical working of a cooperative society. The language of these provisions is clear. They fix the structure of a managing committee, the minimum strength required to treat it as validly constituted, and the limited circumstances in which unfilled reserved seats may be ignored for the purpose of holding meetings.

**29.** Thus, the statutory scheme balances democratic principles with administrative practicality. A managing committee must always have a strong majority of elected members. At the same time, societies are not forced into inaction merely because reserved seats cannot be filled. The requirement of more than two third elected members ensures legitimacy. Section 154B-22 ensures functioning. Rule 74 ensures that co-option does not distort the

elected structure.

Constitution is continuous.

**30.** The expression "shall stand constituted" in Section 154B-19(2) has to be understood in a practical and straightforward manner. It does not describe only one moment in time. It describes a legal condition that must continue throughout the life of the committee. A committee is not like a photograph taken on the day of election. It is a living body whose strength may increase or decrease depending on resignations, deaths, disqualifications or other events during its five-year term.

**31.** The Act itself recognises this reality. Sections 77A and 78 deal with situations that arise after the election is over. These provisions speak of failure to function, stalemate, disqualification of members and other circumstances that disturb the normal working of a committee. The Legislature has used the word "constitution" in these provisions also. This shows that the Legislature expects the constitution of the committee to continue to be examined at any point of time, and not only when the results of the election are declared.

**32.** If the law intended that constitution should be checked only once, on the day of declaration of results, then the Act would not have included Sections 77A and 78. These provisions exist because circumstances after the election may make the committee weak, incomplete or non-functional. The law cannot ignore these later developments. It must ensure that the committee always has the minimum required elected strength to remain valid.

**33.** Therefore, the constitution of the committee is not frozen on the date of election. It must be tested whenever the question arises. If at any stage during the tenure the number of elected members falls below the required “more than two third”, the committee cannot be treated as validly constituted. This interpretation gives effect to the purpose of the Act, protects democratic functioning and prevents a situation where a very small group continues to run the affairs of the society despite loss of majority support.

**Reserved seats and quorum.**

**34.** Section 154B-22 lays down a narrow and practical rule about quorum. If a reserved seat is not filled because no one from that category filed nomination, that vacant reserved seat need not be counted when computing quorum for meetings. The purpose is plain. The society must be able to transact business and cannot be stopped simply because a reserved category had no candidate.

**35.** This rule is limited in scope. It applies only to quorum for holding meetings. It does not change the statutory idea of sanctioned strength of the committee for all other purposes. In particular, it does not convert a post-election vacancy caused by resignation or disqualification into an “unfilled reserved seat” for the purpose of avoiding the statutory threshold.

**36.** Allowing such a construction would invite abuse. Parties could manufacture post-election vacancies and claim they are not to be counted for constitution or for the requirement of elected members. The correct legal position is this. Section 154B-22 helps

keep meetings going when reserved seats were never contestable. It does not permit treating post-election vacancies as if those reserved seats never formed part of the sanctioned strength.

**How to treat an unfilled reserved seat at the time of election.**

**37.** When a reserved seat remains vacant at the time of election because no candidate from that category filed a nomination, the law treats this situation with practical sense. The election program itself recognises that such a seat cannot be filled, not because of any fault of the society, but because no person from the reserved category came forward. In such a case, the object behind Section 154B-22 becomes relevant. The committee must be allowed to function. Therefore, for counting quorum, that unfilled reserved seat is ignored. This prevents the society from coming to a standstill.

**38.** For the purpose of constitution under Section 154B-19(2), the same practical approach must apply. The law requires that more than two third of the "sanctioned strength decided by the Registrar" must be elected. But when a reserved seat was not contestable at all due to lack of nominations, it would be unreasonable to insist that the committee must still produce more than two third of 19. The law cannot expect the impossible. In such a situation, the requirement of "elected members" is applied to the seats that were actually available for contest. If only 18 seats were available for election, then the threshold of more than two third applies to those 18 seats.

**39.** The intention of the Legislature is clear. Lack of candidates for a reserved seat should not become a permanent barrier for constituting a committee. The law aims to protect democratic functioning, not to create technical hurdles. Therefore, where the election program itself recognises that a reserved seat cannot be filled due to non-availability of candidates, that seat is ignored only to the extent necessary to allow the committee to be formed and to hold meetings. This balanced approach keeps the society functional while still protecting the principle that a strong majority of the committee must always be elected.

**The limit on co-option.**

**40.** Rule 74 fixes a strict upper limit on how many members can be brought into the committee through co-option. Only up to one third of the sanctioned strength can be nominated or co-opted. This restriction is not accidental. It is built into the law for two clear reasons.

**41.** First, the heart of every managing committee must always remain elected by the members of the society. Elections give legitimacy. They reflect the will of the general body. Co-option is only a supporting mechanism. It is not a substitute for election. The one third ceiling ensures that elected members always remain in clear majority and control the committee.

**42.** Second, the ceiling prevents a situation where a weak or minority group tries to strengthen itself by co-opting many persons of its own choice. If the law allowed unlimited co-option, a small elected group could fill the entire committee by nomination and

defeat the mandate of the voters. Rule 74 blocks such manipulation by ensuring that no more than one third can ever enter the committee through nomination.

**43.** Because of this limit, co-option cannot be used to repair a committee whose elected strength has already fallen below the minimum requirement of more than two third. The law insists that a validly constituted committee must always have more than two third elected members. Once the elected strength falls below this number, the committee loses its legal character. At that stage, adding nominated members does not revive it. Co-option can help the administration only when the basic structure of the committee remains intact. It cannot correct the fundamental defect of loss of constitutional strength.

**44.** In simple words, co-option is like filling temporary gaps. It cannot rebuild the foundation. If the elected foundation is weakened beyond the legal limit, the committee stops being a committee in the eyes of law, and fresh elections or statutory intervention become necessary.

**The threshold of "more than two third".**

**45.** The expression "more than two third" must be understood exactly as it is written. The Legislature has not left any scope for doubt. When the sanctioned strength of the committee is 19, two third of 19 comes to 12.66. The proviso to Section 154B-19(2) directs that any fraction must be rounded off to the next whole number. Therefore, "more than two third" clearly means 13.

**46.** This requirement is not a formality. It reflects a conscious choice made by the Legislature. A cooperative society is a democratic body. Its managing committee must be under the control of elected members, not nominated ones. By fixing a high threshold of "more than two third", the law ensures that the committee remains firmly in the hands of those who are elected by the general body. It prevents a situation where a very small elected group continues to run the affairs of the society.

**47.** This requirement does not apply only on the day election results are declared. It applies whenever the question of constitution is examined. During the five-year tenure, members may resign, pass away, become disqualified, or stop attending. Whenever such events occur, the Court must check whether the committee still has at least 13 elected members who are active and functioning.

**48.** If at any time the number of elected members falls below 13, the committee automatically loses its legal character. It can no longer claim to be validly constituted under Section 154B-19(2). It cannot continue to act as the managing committee of the society. In such a situation, the law treats the committee as having reached a stalemate, and steps under Sections 77A and 78 become necessary.

**49.** This interpretation gives effect to the plain words of the statute. It protects the democratic structure of cooperative societies and ensures that no committee functions with an elected minority.

***Vijay Lakhi* clarification.**

**50.** I have examined the judgment in *Vijay Lakhi* in the context of the expressions "shall stand constituted" in Section 154B-19, quorum under Section 154B-22, and Rule 74 of the MCS Election Rules 2014. I find that a limited clarification would be useful. I state the reasons below.

**51.** The Act creates a clear statutory sequence. Section 154B-19 fixes the total sanctioned strength of the committee. Sub-section (2) states that a committee "shall stand constituted" when two-thirds of that sanctioned strength is elected. This declaration creates a legal fiction. The committee comes into existence by operation of law on the day when two-thirds members are elected. This legal constitution does not depend on the subsequent filling of unfilled or reserved seats.

**52.** Once a committee stands constituted, quorum for its functioning is governed by Section 154B-22 read with the bye-laws and Rule 74. Quorum is always determined with reference to the sanctioned strength on the date of constitution. The later resignation or vacancy does not reduce quorum unless the statute or the bye-laws expressly provide for such reduction. This position is correctly applied in the said judgment.

**53.** However, the *Vijay Lakhi* judgment does not expressly connect the following three elements together. One, the legal effect of "shall stand constituted." Two, the consequence of vacancies arising after constitution. Three, the rigidity of quorum once fixed on the date of constitution.

**54.** A short clarification will remove possible confusion. It is clarified that once a committee stands constituted under Section 154B-19(2), its quorum does not change because of later vacancies. Rule 74 deals with quorum for meetings, not with re-determination of quorum due to later vacancies. Therefore, a committee that falls below quorum due to resignation or disqualification cannot claim that quorum should be re-calculated on the reduced strength. This is consistent with paragraphs 95 to 98 of the judgment which hold that a committee reduced to four members cannot co-opt because quorum was five.

Application to facts.

**55.** The chronology shows following events.

(a) The election was held for 19 seats on 11 December 2022. One reserved seat remained unfilled for want of candidates.

(b) One elected member resigned on 25 June 2023. The committee accepted his resignation and informed the Registrar.

(c) On 4 August 2024 seven members indicated collective resignation by an email. The manager advised individual resignations. Two members thereafter submitted individual resignations which were accepted on 21 August. Five other members submitted individual resignations on 30 August 2024. The managing committee accepted those resignations on 29 September 2024.

(d) The meeting of 14 September 2024 attempted co-option and filled two of three notified vacancies. The committee strength rose

to 17 after the co-option. After acceptance of the five resignations on 29 September 2024 the strength fell to 12.

Legal effect of the sequence.

**56.** Two separate legal aspects must be clearly understood. First. One reserved seat had remained unfilled at the time of the election because no candidate from that category had filed a nomination. This situation is covered by Section 154B-22. That provision says that when no person from a reserved category is available or elected, that reserved seat will not be counted for quorum. The purpose is simple. The society should not stop functioning merely because no candidate was available for a reserved seat. This is a narrow exception created only for quorum. It cannot be stretched to treat all later vacancies as if they were unfilled reserved seats. Vacancies that arise later due to resignations stand on a completely different footing. Section 154B-22 does not protect those later vacancies.

**57.** Second. When the five members submitted their individual resignations and those resignations were accepted on 29 September 2024, the strength of elected members came down to 12. This is below the minimum legal requirement of 13 elected members. The law under Section 154B-19(2) is clear that the committee must always have more than two third of its sanctioned strength as elected members. When that number drops below the threshold, the committee automatically loses its legal standing. It no longer remains a validly constituted managing committee.

58. This consequence flows directly from the statute. The committee does not remain valid simply because it was valid on the date of election. Constitution is a continuing requirement. Once the elected strength fell to 12, the committee crossed the line below which the law does not permit it to function. In such a situation the law treats it as a “stalemate” and further action has to be taken under the Act.

59. Therefore, based on the admitted facts, the committee ceased to be a legally constituted committee from the moment its elected strength dropped below 13.

60. On the argument raised by the petitioners that the dispute was never amended and that the Appellate Court relied on facts which were not pleaded, the Court finds no substance in this objection. The dates and events relating to the resignations are admitted by both sides. There is no controversy about when the resignations were tendered, when individual resignations were submitted, and when they were accepted. These facts appear from the record of the society itself and from the correspondence exchanged between the parties.

61. When material facts are admitted, the Court is not required to ignore them merely because the dispute petition was not amended. Courts decide issues based on the real situation, not on technical omissions, especially at the stage of interim relief. No party can claim surprise because all events are documented and were within the knowledge of everyone concerned. The petitioners themselves placed these facts before the authorities. The Appellate

Court, therefore, acted within its jurisdiction in considering undisputed events which directly affect the legal issue of whether the committee continued to remain validly constituted.

**62.** In law, when basic facts are clear, uncontested, and supported by the record, the Court is entitled to take them into account to prevent injustice and to ensure that the society is not run by a committee which has lost its legal character.

**63.** In the present case, after the series of resignations were accepted, the committee was left with only twelve elected members. This is below the legally required minimum of thirteen. Once the elected strength falls below the statutory threshold, the committee stops being a validly constituted managing committee. This situation is recognised in the Act as a stalemate. When a stalemate occurs, courts and authorities must step in to prevent misuse of power and to preserve the democratic character of the society.

**64.** The Appellate Court acted correctly by granting protective relief and stopping the weakened committee from taking important decisions. Its order is consistent with the purpose of the law and with the facts admitted by both sides. The petitioners have not shown any legal or factual basis to interfere with that order.

**65.** For these reasons, the writ petitions are dismissed. Each party shall bear its own costs.

(AMIT BORKAR, J.)