

MHCO120002142025



**IN THE COURT OF JUDGE, CO-OPERATIVE COURT NO.
I, PUNE.**

(Presided over by Smt. Anju Jadhav-Judge)

Dispute no.192/2025

**Shri. Nilesh Suresh Gundale
And other.**

:-Disputants

V/s

**Nira Sahakari Society Ltd
And other.**

:-Opponents

ORDER BELOW EXH. NO. 5
(Decided on 30/07/2026)

1. The disputants have challenged resolution Nos. 2(a), 2(c) and 2(d) passed in the Managing Committee Meeting dated 03/06/2025, whereby opponent nos. 3, 4 and 5 have been appointed as Functional Director, Expert Director and Assistant Secretary respectively. According to the disputants, the said appointments are contrary to the provisions of the bye-laws of the society and have been made in an arbitrary and illegal manner.
2. The opponents have opposed the application and contended that the appointments have been made in accordance with the provisions of the bye-laws and the

resolutions were duly passed by the Managing Committee. The validity and legality of the impugned resolutions involve disputed questions of fact, which can be decided only after the parties lead evidence.

3. At this stage, the disputants have failed to establish a strong prima facie case warranting interference with the functioning of the appointees. The question as to whether the appointments are contrary to the bye-laws can be effectively adjudicated at the final hearing of the dispute. Further, no material is placed on record to demonstrate that irreparable loss or injury would be caused to the disputants if the interim relief is refused.

4. Considering the facts and circumstances of the case, this Court is of the opinion that the disputants have failed to satisfy the requirements for grant of temporary injunction. Hence, the application deserves to be rejected.

5. Heard Ld. Adv. Smt. Madhuri Vaidya for disputants and Ld. Adv. Shri. Abhay Inamdar for opponents.

6. Perused record and proceeding, on-going through the contentions and submissions of disputant following points arise for my determination and I record its findings thereon with reasons as under: -

POINTS**FINDINGS**

1. Whether the applicant prove
prima-facie case in his favour? : Negative
Whether applicant prove balance of
convenience in his favour? : Negative
2. Whether applicant will suffer irreparable
loss, if stay is not granted? : Negative
What order? : Application is
rejected.

REASONS**AS TO POINT NOS. 1 to 4 :**

7. The disputants have filed the present application under Section 94 of the Maharashtra Co-operative Societies Act, 1960 seeking a temporary injunction restraining the opponents from giving effect to and implementing resolution Nos. 2(a), 2(c) and 2(d) passed in the Managing Committee Meeting dated 03/06/2025, whereby opponent No. 3 was appointed as Functional Director, opponent No. 4 as Expert Director and opponent No. 5 as Assistant Secretary-cum-Clerk of the opponent society.

8. The case of the disputants is that the aforesaid appointments are contrary to the provisions of the Maharashtra Co-operative Societies Act, 1960 and the

bye-laws of the society. According to them, there is no provision for inviting applications for the post of Functional Director. It is further contended that opponent Nos. 3 and 4 are defeated candidates in the election of the Managing Committee and that their appointments have been made only to secure a back-door entry into the management of the society. It is also alleged that opponent No. 4 does not possess the requisite qualifications or expertise for being appointed as an Expert Director and that the appointment of opponent No. 5 as Assistant Secretary-cum-Clerk is contrary to Bye-law No. 40. On these grounds, the disputants have sought stay to the implementation of the impugned resolutions.

9. For deciding the present application, I have carefully perused Bye-law No. 40 of the opponent society. The said bye-law provides that the Managing Committee shall consist of 13 elected Directors. The Directors are required to be elected from amongst the members of the society through elections conducted by the State Co-operative Election Authority. The bye-law further provides that the Manager of the society shall function as a Functional Director on the Board of Directors. It also empowers the Board, with the

approval of the Committee, to appoint one Expert Director on the Board. The Functional Director and Expert Director are in addition to the prescribed number of elected Directors. Such Directors are not entitled to vote at the meetings of the Board and are not eligible to hold the office of Chairman, Vice-Chairman or any other office bearer of the society.

10. The record reveals that resolution Nos. 2(a), 2(c) and 2(d) were passed in the Managing Committee Meeting dated 03/06/2025 and, pursuant thereto, opponent Nos. 3 to 5 have assumed their respective positions and are discharging their duties. Thus, the impugned resolutions have already been acted upon. Granting an injunction at this stage would have the effect of suspending the operation of the said resolutions and preventing the appointees from discharging their functions, thereby virtually granting the principal relief claimed in the dispute itself. It is a settled principle of law that an interim order should not ordinarily result in granting the final relief sought in the substantive proceedings.

11. The legality and validity of the impugned resolutions and the appointments made there under are seriously disputed by the parties. Determination of

these issues would require examination of the relevant statutory provisions, bye-laws, resolutions and other documentary evidence, as well as appreciation of the evidence that may be adduced by the parties during the course of trial. Therefore, the questions raised by the disputants cannot be conclusively adjudicated at this interlocutory stage.

12. Prima facie, the material placed on record shows that the Managing Committee has exercised its powers under the bye-laws while passing the impugned resolutions. At this stage, there is no material sufficient to hold that the appointments of opponent Nos. 3 to 5 are ex facie void, non est or patently illegal. Whether the appointments satisfy all statutory requirements and the provisions of the bye-laws is a matter which can be finally determined only upon completion of the trial.

13. The material on record further indicates that the appointments have already been implemented and that the present administrative arrangement is in operation. Any interference with the said arrangement at this stage is likely to affect the day-to-day administration and functioning of the opponent society. Consequently, the balance of convenience lies in favour of maintaining the existing state of affairs until the final adjudication of the

dispute. The disputants have also failed to demonstrate that refusal of temporary injunction would result in irreparable loss or injury which cannot be compensated or otherwise remedied in the event they ultimately succeed in the dispute. On the contrary, disruption of the existing administrative set-up may adversely affect the functioning of the society and its members.

14. In view of the foregoing discussion, I am of the considered opinion that the disputants have failed to establish the essential ingredients for grant of temporary injunction, namely, a prima facie case, balance of convenience and irreparable loss. Accordingly, issue Nos. 1, 2 and 3 are answered in the Negative and, in answer to issue No. 4, I proceed to pass the following order.

ORDER

1. Application is rejected.
2. No order as to cost.

Place: Pune Date: 30/07/2026	(Smt. Anju Jadhav) Judge, Co-operative Court no. I, Pune.
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