

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 6438 of 2025****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**

Approved for Reporting	Yes	No
	✓	

JAYESHBHAI NATWARBHAI PATEL & ORS.

Versus

STATE OF GUJARAT & ORS.

Appearance:

MR RR MARSHAL, SENIOR ADVOCATE WITH MR DAIFRAZ
HAVEWALLA(3982) for the Petitioner(s) No. 1,10,15,16,17,2,3,4,5,6,7,8,9
PETITION/APPEAL WITHDRAWN/DISMISSED for the Petitioner(s) No.
11,12,13,14,18

MS MANISHA LUVKUMAR SHAH, ADDITIONAL ADVOCATE GENERAL,
WITH MR KRUTIK PARIKH, ASST. GOVERNMENT PLEADER for the
Respondent(s) No. 1,2

MR BAIJU JOSHI(1207) for the Respondent(s) No. 4

MR. DHRUV D CHALIYAWALA(14081) for the Respondent(s) No. 4

MR. HARSHIL K. PATEL(18158) for the Respondent(s) No. 3

**CORAM: HONOURABLE MR. JUSTICE HEMANT M.
PRACHCHHAK**

Date : 08/05/2026**JUDGMENT**

1. RULE returnable forthwith. Learned Assistant Government Pleader Mr. Krutik Parikh, waives service of notice of Rule for and on behalf of the respondent Nos.1 and 2, learned counsel Mr. Harshil Patel, waives service of notice of Rule for and on behalf of the respondent No.3 and learned counsel Mr. Baiju Joshi, waives service of notice of Rule for and on behalf of the respondent No.4.

2. With the consent of the learned counsels for the parties, the matter is taken up for final hearing and disposal.

3. By way of present petition under Article 226 of the Constitution of India read with the provisions of the Gujarat Cooperative Societies Act, 1961 (hereinafter be referred to as “the Act”), petitioners have prayed for the following reliefs :

“9(A) YOUR LORDSHIP may be pleased to admit and allow this petition.

(B) YOUR LORDSHIP may be pleased to issue writ of Certiorari or Writ in the nature of Certiorari, or any other Writ, Order or Direction quashing and setting aside the impugned notice dated 16.04.2025 (Annexure A) issued by the respondent no.2 and thereby direct the respondent authorities to drop the proceedings instituted against the petitioners pursuant to impugned notice;

(C) Pending admission, hearing and final disposal of this petition, YOUR LORDSHIP may be pleased to stay implementation, operation and execution of the further proceedings in connection with the impugned notice both dated 16.04.2025 (Annexure A) issued by the respondent no.2.

(D) YOUR LORDSHIP may be pleased to pass such other order and further orders as may be deemed just and proper in the interest of justice.”

4. Brief facts giving rise to the present petition are that, the Sonsak Group Cooperative Cotton Sale Society Limited, (herein after be referred to as ‘the Society’), Olpad, District Surat, is a cooperative Society registered under the provisions of the Gujarat Cooperative Societies Act, 1961 and was registered under Registration No. 3384 on 09.05.1921. It is the case of the petitioners that, the petitioners are serving as Chairman, Vice-Chairman, and Committee Members of the said Society and have been conducting the affairs of the Society

in an honest, diligent, and transparent manner since their respective appointments.

4.1 That, on 27.07.2024, the Society received a letter regarding the audit of the Society for the period from 01.04.2023 to 31.03.2024, wherein, it was indicated that certain discrepancies were observed during the audit and the Society was directed to rectify the same and submit a corrected report to the Special Auditor, Cooperative Societies, within two months. That, upon receipt of the aforesaid communication, a meeting of the Administrative Committee was held on 30.09.2024, wherein it was decided to conduct a stock inspection of the Jahangirpura Branch and therefore, an inspection was carried out on 02.10.2024, however, no irregularities were found.

4.2 That, subsequently, between 03.10.2024 and 08.10.2024 stock inspection at the Olpad Centre was carried out, during which, certain irregularities were discovered and it was found that the ex-Manager had misappropriated the funds of the Society and accordingly, on 10.10.2024, the Society decided to initiate legal proceedings against the said individual. That, on 01.01.2025, the Society issued communications to its members, directing them to deposit the outstanding dues reflected against their names in the Society's records and in response thereto, certain members approached the Society and submitted that they had not taken any loans or advances from the Society and therefore, no dues were outstanding against them. That, these communications were received around the end of the first week of January, 2025.

4.3 That, on 09.01.2025, the In-charge Manager of the Society, Shri

Sukhdev Bhai Gangaram Bhai Patel, submitted an application before the Police Inspector, Olpad Police Station, Surat, against three accused persons, namely, 1. Paresh Kumar Ranjitsinh Thakur (Ex-Manager), 2. Vishwajeet Singh Rajendrasinh Solanki (Ex-Clerk), and 3. Mayur Kumar Vijaybhai Patel (Clerk), for offences of criminal breach of trust and cheating under the relevant provisions of the Bhartiya Nyay Sanhita, 2023 and in connection with the said complaint, the Police Inspector, Olpad Police Station, Surat, vide communication dated 12.01.2025, called for an inquiry report from the District Registrar, Cooperative Societies, Surat. That, in the meantime, the District Registrar appointed Shri S.M. Choksi, Auditor Grade-II, to conduct an inspection under Section 88 of the Act and the said auditor intimated the Society that the inspection would be conducted on 31.01.2025.

4.4 That, the auditor thereafter, visited the Society, and the petitioners provided all documents and information sought during the course of the inspection. To the best of the petitioners' knowledge, the auditor submitted his report dated 27.03.2025 to the District Registrar, but no copy of the said report has been furnished to the petitioners till date. That, thereafter, on 08.04.2025, the District Registrar issued a show cause notice to the present petitioners under Section 81 of the Act, directing them to show cause as to why the Committee should not be superseded and an Administrator appointed to manage the affairs of the Society, which was challenged by the petitioners before this Court by way of filing Special Civil Application No. 5897 of 2025. That, thereafter, the petitioners received the impugned show-cause notice dated 16.04.2025 issued by the respondent No.2 issued under Section 93 of the Act for no fault on their part.

5. Being aggrieved by and dissatisfied with the inaction on the part of the respondent No.2, the present petition is preferred.

6. Heard Mr. R.R. Marshal, learned senior counsel assisted by Mr. Daifraz Havewalla, learned counsel appearing on behalf of the petitioners, Ms. Manisha Lavkumar Shah, learned Additional Advocate General assisted by Mr. Krutik Parikh, learned Assistant Government Pleader appearing on behalf of the respondent Nos.1 and 2, learned counsel Mr. Harshil Patel, appearing on behalf of the respondent No.3 and learned counsel Mr. Baiju Joshi, appearing on behalf of the respondent No.4.

7. Learned senior counsel Mr. Marshal has submitted that the impugned show-cause notice dated 16.04.2025 issued by the respondent No.2 District Registrar, Surat contains certain eventualities as stated in the said notice that during the terms of the present petitioners, the Chairman and other office bearers of the Committee had misappropriated the funds to the tune of Rs. 58,40,346.70ps. and they had not taken care to safe-guard the interest of the Society. He has submitted that though 65 agriculturists have not actually taken any loan, the same was credited and because of that, the said 65 agriculturists were unable to get further additional financial benefits from the Society and this transaction was done behind the back of the said 65 agriculturists and thereby, they have deprived of those beneficiaries / agriculturists and there were other financial misappropriation during the period from 2021 to 2022. He has further submitted that it was also mentioned in the said show-cause notice that, though serious allegations were made against

these office bearers, the Committee had accepted the resignation of those office bearers without taking any action against them.

7.1 Learned senior counsel Mr. Marshal has submitted that the impugned show-cause notice is illegal, arbitrary and unjust as the petitioners have not committed any irregularity as alleged in the said show-cause notice issued by the respondent No.2. He has submitted that the In-charge Manager has filed criminal complaint with the Olpad Police Station against the concerned persons against whom allegations of malpractice and irregularities were made and the same was also investigated by the concerned jurisdictional police and for the said financial irregularities, the whole committee cannot be held responsible. He has submitted that in fact, for the year 2023-2024, the audit was carried out and the auditor has audited the accounts of the Society and the auditor has not assigned any irregularities against the present petitioners, on the contrary, the auditor has marked his remarks that everything is in accordance with the provisions of the audit report and no irregularities were found and therefore, the show-cause notice itself is bad in law and against the settled legal principles. He has further submitted that the show-cause notice was issued against all the elected members of the Society and thus, the respondent No.2 has acted in mala fide and arbitrary manner in the hands of the ruling party by issuing the impugned show-cause notice. Learned senior counsel Mr. Marshal has emphasized upon the remarks made by the auditor in the audit report prepared while carrying out the audit of the accounts of the Society and submitted that for the so-called illegalities or irregularities, the petitioners have initiated criminal proceedings against the erring officers and they have acted in the benefits and interest of the members at large and there is no

illegality committed by the present petitioners. He has submitted that this Court while issuing notice has passed the order that there shall be no stay of the proceedings before the respondent No.2 - District Registrar, Surat pending the present petition and no final order shall be passed pursuant to the show-cause notice till the next date of hearing. In view of the said order, learned senior counsel Mr. Marshal has submitted that, so far as the maintainability of the present petition is concerned, the respondent authority cannot raise any contention with regard to the maintainability as this Court has entertained this petition and issued notice meaning thereby, that this Court was inclined to issue notice and grant interim relief in favour of the petitioners and therefore, the petition deserves to be entertained and the interference of this Court at this stage is required. Over and above the grounds agitated in the memo of petition, learned senior counsel Mr. Marshal has urged that the present petition be allowed and the impugned show-cause notice issued by the respondent No.2 be quashed and set aside.

8. On the other hand, learned Additional Advocate General Ms. Manisha Lavkumar Shah, appearing on behalf of the respondent authorities, has submitted that under the settled legal proposition of law as decided by the Hon'ble Apex Court as well as this Court, the writ petition invoking jurisdiction under Article 226 of the Constitution of India challenging the show-cause notice is not maintainable and therefore, the present petition is required to be dismissed. She has submitted that the present petition is at pre-mature stage as, merely a show-cause notice has been issued by the respondent authority under the provisions of Section 93 of the Act for the alleged misappropriation of funds during the tenure of elected committee

members of the Society and therefore, at this stage, the present petition is not required to be entertained by exercising jurisdiction under Article 226 of the Constitution. She has submitted that the petitioner has not raised any dispute with regard to the jurisdiction of the respondent No.2 for issuance of any show-cause notice under Section 93 of the Act in the present petition. She has submitted that it is also relevant to note herein that out of 18 committee members, 5 committee members have approached the statutory authority by availing alternative efficacious remedy of filing appeal before the Additional Registrar (Appeals), Co-operative Societies, Gandhinagar and qua those 5 members, the present petition came to be dismissed, however, the present petitioners, without approaching the Appellate Authority, have directly preferred this petition, which is not maintainable, as it is now well settled that against the show-cause notice, the Court in exceptional circumstances only can consider and interfere at the stage of issuance of show-cause notice and herein the present case, the petitioners have not shown any exceptional circumstance and therefore, the petitioners are also required to be relegated before the Appellate Authority. She has submitted that the petitioners have alternative efficacious remedy available to challenge the show-cause notice issued by the respondent No.2 under Section 93 of the Act before Additional Registrar (Appeals), Co-operative Societies, Gandhinagar and therefore this Court would be very slow in exercising the extraordinary powers, especially when the petitioners have alternative remedy available in the eye of law and therefore, the present petition is required to be dismissed.

8.1 In support of her submissions, learned AAG Ms. Shah has referred to and relied upon the decision of this Court rendered in

similar set of facts in case of **Registrar, Co Operative Societies vs. Vipulbhai M. Chaudhary**, reported in **2019 (0) AIJEL-HC 241296**, wherein, this Court has dismissed the petition filed challenging the show-cause notice issued under Section 93 of the Act. The relevant observations made by this Court in paras-14, 17 and 18, which are reproduced hereunder :

“14. Looked at from the point of view of the recognized principles of grant of interim injunctions i.e prima-facie case/balance of convenience and irreparable injury, when the facts are seen, it is evident that even though the Inquiry Officer is appointed on 01.09.2018 and before the issuance of a charge sheet he is bound to follow the procedural aspect of following the principles of natural justice and then frame charges which would ultimately be the foundation of the order under Section 93 of the Act, he has hastened to close the doors on the respondent, when even he himself had expressed a handicap of having insufficient material to frame the charge. In the eventuality together with the rojkam recorded on 02.01.2019 which is contrary to the facts that unfolded, a predetermined exercise appears apparent and therefore in the event of an order under Section 93, in absence of material, even as per the Inquiry Officer’s version would go to the root of the matter and to leave the respondent to challenge the legality of such process after the order is to present a fait accompli and definitely will cause serious prejudice to the Respondent. In this event, the order of the Tribunal cannot be faulted. The Tribunal, in the background and the events narrated hereinabove appears to have acted in accordance with the discretion vested in it and the order cannot be said to be capricious or so ex-facie illegal and that too an ex-parte ad-interim order that would warrant interference at the hands of this Court under Article 226 of the Constitution Of India.

17. In context of the State having filed the petition in June 2019 after having repeatedly sought time before the Tribunal for filing a reply and thereby not coming with full disclosure of facts of having participated before the Tribunal is evident from the Rojkam produced by the respondent in its Affidavit. From the Rojkam it appears that time was sought to file reply, the Tribunal thereafter adjourned the hearing, extended the stay with consent and almost 7 months after an ex-parte order having lived, the challenge is questioned by the State without going to the Tribunal for a hearing on merits. I may not agree with Mr. Joshi’s submission that such a conduct would amount to suppression of facts. However, had the State on the basis of the pleadings secured an ex-parte order from this Court, without such full disclosure, it could have been held as a circumstance against the State.

17.1 However, the State instead of responding to the order on merits waited for 7 months to come forth and challenge the ex-parte ad interim

order. What is required to be borne in mind that the Tribunal has not stayed the inquiry in toto. What the Tribunal has directed is that the inquiry should progress only after granting appropriate copies and after following the principles of natural justice. The issue is yet writ large before the Tribunal. The Tribunal on the facts has only passed an ex-parte order of injunction, though conditional and in the facts of the case it cannot be said to be so patently or grossly illegal or whimsical or capricious so as to warrant interference at the hands of this Court in a Petition under Article 226 of the Constitution Of India.

18. *With regard to the applicability of the judgements cited at the Bar and relied upon by the Tribunal, I express no opinion at this stage and the view expressed hereinabove on the facts are only limited to the testing of the legality and validity of the Tribunal's ex-parte ad interim order and the parties are at liberty to place their submissions and it is for the Tribunal after the considering all the submissions of the parties including the petitioner to pass an appropriate order after hearing both the parties on the question of interim relief in the pending Revision."*

8.2 So far as the contention with regard to non-maintainability of the present petition is concerned, learned AAG Ms. Shah has referred to and relied upon the decision of this Court rendered in similar set of facts in case of **Bharatbhai Maganbhai Patel vs. Director (Sugar)**, reported in **2025 (0) AIJEL-HC 251916**, more particularly, the observations made in paras-12 and 18, which are reproduced hereunder :

"12. *So as to decide the aforesaid question, first and foremost thing is to go through the provision of Section 93 of the Act very carefully. Section 93 of the Act reads, thus;*

"93. Power of Registrar to assess damages against delinquent, promoters, etc.:

(1) Where, in the course of or as a result of an audit under Section 84, or an inquiry under Section 86 or an inspection under Section 87, or the winding up of a society, the Registrar may satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under Section 86, or the person authorised to inspect the books under Section 87, or the Liquidator under Section 110, that any person who has taken any part, in the organisation or undefined management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to the date of such audit, inquiry, inspection or order for winding up, misapplied or retained, or become liable or accountable for, any

money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may investigate the conduct of such person or persons and after framing charges against such person or persons, and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate as the Registrar or the person authorised under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine.

(2) The Registrar or the person authorised under sub-section (1) in making any order under this section, may provide therein for the payment of the costs or any part thereof of such investigation, as he thinks just, and he may direct that such costs or any part thereof shall be recovered from the person against whom the order has been issued.

(3) This section shall apply, notwithstanding that the act is one for which the person concerned may be criminally responsible".

18. *In view of the aforesaid discussion, this Court is not having slightest doubt in the mind that the respondent No.1 has committed blatant illegality insofar as issuing notice upon the petitioners at the stage of taking decision to authorise the officer to hold inquiry under Section 93 of the Act. Therefore, the practice adopted of issuing show cause notice and holding pre-inquiry by the respondent No.1 at the administrative stage is highly deprecated. The respondent No.1, therefore, in my view, could not have introduced any such inquiry and / or practice by issuing the show cause notice prior to holding an inquiry under Section 93 and/or authorizing person to hold an inquiry being not approved by the provisions of law."*

9. It appears from the record that during the pendency of the present petition, one Nimeshbhai Naginbhai Patel has preferred civil application before this Court for joining as party respondent No.4 in the present proceedings, as he is the torch bearer and upon whose complaint, the proceedings had been initiated. In the said application, the original petitioners - respondents therein, have filed their affidavit-in-reply objecting the civil application for joining as party respondent. However, after considering the reported decision of this Court, the said civil application came to be allowed by this Court vide

order dated 23.03.2026 and the said Nimeshbhai Naginbhai Patel was joined as party respondent No.4, who is represented through learned counsel Mr. Baiju Joshi. Learned counsel Mr. Baiju Joshi, appearing on behalf of the newly added party respondent No.4, has submitted that the respondent No.4 is the torch bearer and he has pointed out the alleged illegalities and because of these illegalities, an illegal entry was posted in the Register that 65 agriculturists had obtained loan from the Society, in fact, neither they had applied for any loan nor they were aware about the fact that loan has been credited in their names and those who were the beneficiaries because of the earlier loan transactions shown in the names of the agriculturists, were restrained from obtaining any loan in future as they had been shown as debtors of the Society, though they had not obtained any financial assistance from the Society, however, because of this fraudulent transaction, they have been restrained by the fraudulent act of the erring officers of the Society and therefore, under such circumstances, the petitioner deserves to be dismissed, as it is at pre-mature stage.

10. I have heard the learned counsel appearing for the respective parties and perused the material placed on record. The issue involved in the present petition is that, whether at the stage of issuance of show-cause notice without availing the statutory remedy available under the statute itself, by way of filing petition under Article 226 of the Constitution of India, extraordinary jurisdiction is required to be exercised by this Court or not and whether the Court can interfere with at the stage of issuance of show-cause notice or not. It appears from the record that the petitioners have challenged the show-cause notice dated 16.04.2025 issued by the respondent No.2 under Section 93 of the Act for alleged breach of misappropriation of funds during the

tenure as elected committee member of the Society. It also emerges that there is no stay against the proceedings initiated by the respondent No.2 under Section 93 of the Act. On the foregoing above referred facts and submissions of the parties and after considering the submissions advanced by both the sides, the provisions of Section 93 of the Act are required to be looked into first, which is reproduced hereunder :

“Section 93 : Power of Registrar to assess damages against delinquent, promoters, etc.

(1) Where, in the course of or as a result of an audit under Section 84, or an inquiry under Section 86 or an inspection under Section 87, or the winding up of a society, the Registrar may be satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under Section 86, or the person authorised to inspect the books under Section 87, or the Liquidator under Section 110, that any person who has taken any part, in the organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to the date of such audit, inquiry, inspection or order for winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may investigate the conduct of such person or persons and after framing charges against such person or persons, and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate as the Registrar or the person authorised under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine.

(2) The Registrar or the person authorised under sub-section (1) in making any order under this section, may provide therein for the payment of the costs or any part thereof of such investigation, as he thinks just, and he may direct that such costs or any part thereof shall be recovered from the person against whom the order has been issued.

(3) This section shall apply, notwithstanding that the act is one for which the person concerned may be criminally responsible."

11. From the provisions as referred hereinabove, it is pre-requisite condition of initiation of proceedings under Section 93 of the Act to have an inspection carried out under Section 88 of the Act, and in the present case, an inquiry was undertaken by an Inquiry Officer of Auditor Grade-II, Co-operative Societies on 27.03.2025, whereby, the inquiry officer had recommended to initiate proceedings under Section 93 of the Act against the elected committee members with regard to the misappropriation of funds for the period between 01.04.2020 to 31.03.2024. It also emerges from the record that, the Inquiry Report under Section 93 of the Act, which forms the basis of the issuance of the show-cause notice, is never challenged by the petitioners in the present petition or before any competent forum. On perusal of the Inquiry Report, show-cause notice under Section 93 of the Act came to be issued to all the elected committee members to show cause as to why the proceedings under Section 93 of the Act should not be initiated against the petitioners for alleged misappropriation of funds of the Society.

12. While exercising jurisdiction under Section 93(1) of the Act, the authority initially initiated enquiry under Section 84 and after considering the report under Section 84, the authority has issued the show-cause notice under Section 93 of the Act, which is yet to be decided finally because, until and unless the explanation is rendered by the concerned member before the authority who has issued the show-cause notice, after hearing the concerned parties, the final order is to be passed, against which, there is a statutory alternative

efficacious remedy available under the statute and therefore, when there is a statutory alternative remedy available to the present petitioner, I am of the opinion that at the stage of issuance of show-cause notice, the Court cannot interfere with such show-cause notice only on the apprehension that the respondent authority will act in arbitrary manner and will pass the order without considering the submissions of the concerned. A notice to show cause is calling upon a person to explain the discrepancies / illegalities shown in the show-cause notice and if the authority is satisfied with the explanation rendered by the concerned, the authority will withdraw such show-cause notice and therefore, under such circumstances, it is a premature stage when the Court can interfere with while exercising extraordinary jurisdiction under Article 226 of the Constitution, which in my opinion is without being any cogent reasons merely by showing in anticipation that the authority will exercise and act in a pre-judicial manner, the Court cannot interfere with the same. Moreover, in view of the recent decision of this Court in case of **Bharatbhai Maganbhai Patel (Supra)**, which is confirmed by the Division Bench of this Court in Letters Patent Appeal No. 1055 of 2025 decided on 09.09.2025, I am of the opinion that the present petition deserves to be dismissed as there is no any illegality or any irregularity found in the impugned show-cause notice issued under Section 93 of the Act.

13. On perusal of the record and after going through the submissions canvassed by both the sides, it is also relevant to note herein that some of the members of the Society have already availed the alternative efficacious remedy available under the statute by way of preferring appeal before the competent forum being Additional Registrar (Appeals), Co-Operative Societies, Gandhinagar and

therefore also, present petition deserves to be dismissed. So far as the contention raised by the learned senior counsel Mr. Marshal for the petitioner that there cannot be any dispute with regard to maintainability is concerned, the facts of the present case are materially different, as in the case on hand, some of the committee members have already availed alternative efficacious remedy available under the statute and therefore, there cannot be any discrimination and therefore also, present petition is required to be dismissed.

14. At this juncture, it would be appropriate to refer to the decision of this Court rendered in case of **Kheda District Cooperative Purchase and Sales Union Ltd. vs. J.P. Gupta and Others**, reported in **[2014] LawSuit Guj. 686**, more particularly, the observations made in para-6, which is reproduced hereunder :

"6. Being a petition directed against the show cause notice, I am not inclined to interfere at this stage. The petitioner would have full opportunity to refute all the allegations made in the show cause notice as also opportunity to produce such material as may be desired. It would be only thereupon that the authority would take a final decision whether to drop the show cause notice or to pass any order in terms of Section 93 of the Act. At this stage, it is not possible to exonerate petitioner No.2 of any possible action under Section 93(1) of the Act. The language used therein is very wide and the adverse consequence envisaged therein would follow against any person who has taken any part in the organization or management of the society within five years prior to the date of the audit, inquiry, inspection and it is found that he has been guilty of misfeasance or breach of trust in relation to the society. Any action of course has to be preceded by granting of reasonable opportunity to the person concerned. Whether the expenditure was authorized by the society, whether the petitioner was guilty of any misfeasance or breach of trust in relation to the society and while incurring such expenditure which must be gone into after permitting the petitioner to file his full reply."

15. Moreover, the judgment rendered by this Court in case of **Vipulbhai M. Chaudhary (Supra)** has been confirmed by the Division Bench of this Court in **Letters Patent Appeal No. 779 of 2017**, wherein the Division Bench has confirmed the decision of the learned Single Judge and in view thereof, this Court is not inclined to interfere with the impugned show-cause notice issued under Section 93 of the Act merely on the ground of any *mala fide* or any arbitrary.

16. In the result, the present petition is hereby dismissed. Rule is discharged. There shall be no order as to costs. Interim relief, if any, granted earlier, stands vacated forthwith.

(HEMANT M. PRACHCHHAK,J)

FURTHER ORDER

Learned senior counsel Mr. Marshal has requested that the interim relief may be extended for a further period of four weeks.

No case is made out for extension of the interim relief and therefore, the request made by the learned senior counsel Mr. Marshall is hereby refused.

(HEMANT M. PRACHCHHAK,J)

Dolly