

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 7802 of 2026**

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JAYESHBHAI NATWARBHAI PATEL
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR PRAKASH JANI, SENIOR ADVOCATE with MR MASOOM K
SHAH(6516) for the Petitioner(s) No. 1
NEHA M SHAH(9218) for the Petitioner(s) No. 1
MS MANISHA LAVKUMAR, AAG with MR BHAVESH DESAI, AGP for the
Respondent(s) No. 1,2

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CORAM: **HONOURABLE MR.JUSTICE L. S. PIRZADA**

Date : 04/06/2026

ORAL ORDER

1. The present captioned petition has been preferred by the present petitioner seeking, inter alia, the following substantial reliefs:

“(a) To quash and set aside the Notification dated 21.07.2011 issued by the State of Gujarat.

(b) To declare that a private person cannot be appointed under Section 93 of the Gujarat Co-operative Societies Act, 1961.

(c) To quash and set aside the impugned Order dated 27.05.2026 issued by respondent No.3 under Section 93 of the Gujarat Co-operative Societies Act, 1961.

(d) Pending admission, hearing and final disposal of the petition, to stay the operation, implementation and effect of the impugned Order dated 27.05.2026."

3. Learned Additional Advocate General Ms. Manisha Lavkumar appearing with learned Assistant Government Pleader Mr. Bhavesh Desai on behalf of the respondent Nos. 1 and 2 submitted that they want to file a written affidavit-in-reply to the present captioned petition. It was submitted that certain points of law have been raised and, therefore, a detailed affidavit is required to be filed by the respondent Nos. 1 and 2.

4. Learned Senior Advocate Mr. P.K. Jani for learned advocate Mr. M.K. Shah for the petitioner submitted that, at this stage, they want ad-interim relief to stay the impugned Order dated 27.05.2026.

5. Heard learned advocates appearing for the parties. It is the main submission on behalf of the petitioner that a private person has no authority to hold an inquiry as an Inquiry Officer under Section 93 of the Gujarat Co-operative Societies Act, 1961 (in short, "the Act, 1961"). It is further submitted that Section 3 of the Act, 1961 pertains to the designation of Registrars and other officers and their powers. It is further submitted that the

powers under Section 93 of the Act, 1961 are quasi-judicial in nature and, therefore, such powers cannot be given to a private person to hold an inquiry, as is clear from the provisions of Section 93.

6. It is further submitted that earlier, Special Civil Application No.6438 of 2025 was preferred when a show-cause notice was issued for initiating an inquiry under Section 93 of the Act, 1961. The same came to be dismissed and the said order was challenged by preferring Letters Patent Appeal No.406 of 2026. In the said Letters Patent Appeal also, no stay came to be granted. Subsequently, the petitioner approached the Hon'ble Apex Court and the Hon'ble Apex Court granted liberty to move before the Vacation Bench on 27.05.2026 and on that date only, respondent No.2 passed the Order under Section 93 of the Act, 1961 and, therefore, it is a clear case of overreaching the process of law.

7. It is further submitted that, at this stage, the only prayer made by the petitioner is that he may be protected and that the impugned Order dated 27.05.2026 be stayed. It is further submitted that the petitioner is ready and willing to deposit the amount as directed under the Order dated 27.05.2026 under Section 93 of the Act, 1961 and, therefore, considering the aforesaid facts, ad-interim relief deserves to be granted.

8. On the other hand, learned Additional Advocate General Ms. Manisha Lavkumar Shah has vehemently opposed the submission of the petitioner and submitted that as far as the present respondents are concerned, they want to file a detailed affidavit-in-reply to meet all the contentions as well as the submissions made by the learned advocate for the petitioner.

9. It is further submitted that as far as the Order dated 27.05.2026 is concerned, it has already been passed and the petitioner can also challenge the same before the appropriate authority. It is further submitted that the petitioner has not challenged the inquiry report dated 27.05.2026. On the contrary, the petitioner has participated in the inquiry proceedings and, he had not raised the issue that the Inquiry Officer had no power to hold the inquiry.

10. It is further submitted that, as far as the impugned Order dated 27.05.2026 is concerned, the inquiry report was submitted through the District Registrar on 27.05.2026 by Mr. I.I. Saiyed, who is legally an advocate. However, from the inquiry report, it is clearly reflected that he is an Inquiry Officer on the panel of the Co-operative Department and that both his old panel number and new panel number have been mentioned.

11. Therefore, it cannot be said that the Inquiry Officer is a private person. Hence, the said arguments, at this stage, cannot be considered by this Court, particularly when the respondents want to file their affidavit-in-reply to meet all the contentions raised in the petition. Hence, considering the aforesaid facts, no ad-interim relief deserves to be granted.

12. Further, learned advocate Mr. Baiju Joshi appearing on behalf of the respondent No.4 submitted that, in the present petition, the Society has not been made a party and that the Society has to move an application to join the proceedings. Hence, time is required to be granted.

13. After considering the rival submissions, at this stage, the short question is whether any ad-interim relief is required to be granted till the affidavit-in-reply is filed by the respondents.

14. So far as the petitioners are concerned, they have challenged the Notification dated 21.07.2011 issued by the Government and have also challenged the action taken by the respondents under Section 93 of the Gujarat Co-operative Societies Act, 1961, and pertaining to the whether another contention regarding the authority of the Inquiry Officer to conduct an inquiry under Section 93

of the Act, 1961 is concerned and other allied issues require detailed consideration. For that purpose, an opportunity is required to be granted to the respondents to file their affidavit-in-reply. Considering the aforesaid facts and circumstances, prima facie, no case is made out for grant of any ad-interim injunction against the impugned Order dated 27.05.2026 issued by respondent No.2 under Section 93 of the Act, 1961.

15. Learned advocates appearing for the respondents pray for time to file their affidavit-in-reply.

16. Considering the aforesaid, issue Notice to the remaining respondents, returnable on 09.06.2026. Learned Additional Advocate General Ms.Manisha Luvkumar Shah assisted by learned Assistant Government Pleader Mr.Bhavesh Desai waives service of notice on behalf of the respondent No.1 and learned advocate Mr.Baiju Joshi waives service of notice on behalf of the respondent No.4.

STANCY GOMES

(L. S. PIRZADA, J)