

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7803 of 2026**

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DESAI MEHULKUMAR JAYANTILAL & ORS.

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR MASOOM K SHAH(6516) for the Petitioner(s) No.

1,10,11,12,2,3,4,5,6,7,8,9

NEHA M SHAH(9218) for the Petitioner(s) No.

1,10,11,12,2,3,4,5,6,7,8,9

MS MANISHA LAVKUMAR SHAH AAG assisted by 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 captioned petition has been preferred by the petitioners to set aside the notification dated 21.07.2011 issued by the State of Gujarat and mainly to declare that the private person cannot be appointed under Section 93 of the Gujarat Co-operative Societies Act, 1961 (for short 'the Act, 1961') and also to quash and set aside the impugned order dated 27.05.2026 issued by the respondent no.3 under Section 93 of the Act, 1961 and pending admission and hearing of the

final disposal of the petition to stay the impugned order dated 27.05.2026 has been prayed.

2. Learned Additional Advocate General Ms.Manisha Lavkumar Shah appearing on behalf of the respondent nos.1 and 2 submitted that they want to file an affidavit-in-reply to this and hence, in the captioned petition law point has been raised and detailed affidavit is required to be filed by the respondents.
3. Learned advocate Mr.Masoom K. Shah appearing for the petitioners has stated that in the meantime the ad-interim protection is required to be granted to the present petitioner by staying the impugned order dated 27.05.2026.
4. Heard learned advocates for the respective parties. So far as the main submission is concerned it is contended that the private person has no authority as an inquiry Officer under Section 93 of the Act, 1961. It was submitted that as far as Section 3 of the Act, 1961 is concerned, it pertains to definition of Registrar and

other Officers and the powers and further it was submitted that it is clear from the language of Section 93 of the Act, 1961 that it is a quasi judicial power which cannot be given to a private person to conduct an inquiry.

5. It was submitted that earlier a Special Civil Application No.6438 of 2025 was preferred when show cause notice had been issued to initiate an inquiry under Section 93 of the Act, 1961 which was dismissed and the same was challenged preferring Letters Patent Appeal No.406 of 2026 and in the Letters Patent Appeal also no stay was granted. Subsequently, the petitioners had to approach the Hon'ble Apex Court and Hon'ble Apex Court has granted liberty to move before the Vacation Bench on 27.05.2026 and on that date only the respondent no.2 has passed an order under Section 93 of the Act, 1961. It is a clear case of overreaching the process of law.
6. It was submitted that at this stage the only prayer they

are making is that they may be protected and the impugned order dated 27.05.2026 is to be stayed. Further, he submitted that petitioners are ready and willing to deposit the amount as per the order dated 27.05.2026 passed under Section 93 of the Act, 1961. Hence, considering this ad-interim relief is required to be granted.

7. Learned advocate Mr.Masoom K. Shah appearing for the petitioners has relied upon the Judgment of this Court in the case of ***(The) Anant Mills Co. Ltd. (Under Liquidation) Versus Municipal Corporation for the city of Ahmedabad and Others*** reported in ***(1993) 2 GLH 897*** more particularly, paragraph no.8 of this Judgment and another decision of this Court in the case of ***Gunvatray Manilal Desai Versus The Director of Agricultural Marketing and Finance Gujarat State, Ahmedabad and Others*** reported in ***(1978) 19 GLR 895*** more particularly, paragraph 9. Further he would submit that the petitioners have challenged the notification of the Government dated

21.07.2011 and the present petitioner has a very good case and considering this the ad-interim relief is required to be granted and the order passed by respondent no.2 is required to be stayed.

8. On the other hand, learned Additional Advocate General Ms.Manisha Lavkumar Shah had vehemently opposed the contentions of the petitioners and submitted that the respondents wants to file detailed affidavit-in-reply in detail to meet with all the contentions of the petition and the submissions made by the learned advocate for the petitioners.
9. Further, she submitted that as far as the order dated 27.05.2026 is concerned, it is already passed and they can challenge it before the appropriate Authority. It was submitted that the petitioners have not challenged the inquiry report dated 27.05.2026 and on the contrary petitioners have participated in the inquiry proceedings and even in the inquiry proceeding they have not raised the issue that the inquiry Officer has

no power to hold an inquiry.

10. It was submitted that the inquiry report has been submitted through the District Registrar on 27.05.2026 by Mr.I.I. Saiyed who is merely an advocate but from the inquiry report it is clear that he is inquiry Officer on the panel of the Co-operative Department and his old panel number and new panel number has also been mentioned. So, 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 as still the respondents want to file their affidavit-in-reply to meet with all the contentions. Considering this, no ad-interim relief can be granted.
11. Learned advocate Mr.Baiju Joshi appearing on behalf of the Society submitted that in the present petition, the Society has not been made as a party and the Society has to move an application to join them in the proceedings. Hence, time is required to be granted.
12. After considering the rival submissions, a short

question at this stage is whether any ad-interim relief can be granted till the affidavit-in-reply can be filed by the respondents? So far as the petition is concerned they have challenged the notification of the Government dated 21.07.2011 and also challenged the action taken by the respondent under Section 93 of the Act, 1961 and pertaining to another contention regarding their authority of the inquiry Officer to conduct an inquiry under Section 93, these all are the issues that require a detailed hearing and for that opportunity is required to be granted to the respondents to file their affidavit-in-reply and considering this prima facie, the case is not been made out to grant any ad-interim injunction to stay the operation, implementation and effect of the impugned order dated 27.05.2026 issued by the respondent no.2 under Section 93 of the Act, 1961.

13. Learned Additional Advocate General Ms.Manisha Lavkumaar Shah appearing for the respondents prayed for time to file their affidavit-in-reply.

Considering this, issue notice to the respondents, returnable on 09.06.2026.

14. Learned Additional Advocate General Ms.Manisha Lavkumar Shah assisted by learned advocate Mr.Bhavesh Desai waives service of notice on behalf of the respondent nos.1 and 2.

DIKSHA

(L. S. PIRZADA, J)