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ATUL GANESH KULKARNI

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13006 OF 2025

Anuj Cooperative Housing Society Limited, having address at 96, August Kranti Marg, Gowalia Tank Road, Mumbai 400 036, … **Petitioners**

Vs.

1. **District Deputy Registrar of Coop. Societies-1**, Malhotra House, 6th Floor, Opposite G.P.O. Mumbai 400 001
2. **Deputy Registrar of Cooprative Societies-D Ward**, Malhotra House, 6th Floor, Oppoiste G.P.O., Mumbai 400 001.
3. **Parul Nitin Gothi**, Flat No.401, Anuj Coop. Housing Society Limited, 96, August Kranti Marg, Gowalia Tank Road, Mumbai 400 036
4. **Minister of Cooperative & Textile**, 5th Floor, Mantralaya, Mumbai – 400 022 … **Respondents**

WITH
SUO MOTO CONTEMPT PETITION NO.1 OF 2026
IN
WRIT PETITION NO.13006 OF 2025

High Court on its own motion … **Petitioner**

Vs.

1. **Nitin Kale, District Deputy Registrar of Coop. Societies-1**, Malhotra House, 6th Floor, Opposite G.P.O. Mumbai 400 001
2. **Rajesh Lavhekar, Deputy Registrar of Cooprative Societies-D Ward**, Malhotra House, 6th Floor, Oppoiste G.P.O., Mumbai 400 001.

... Respondents

Mr. Aditya Lele with Mr. Atul Mishra for the petitioner.

Ms. Neha Bhide, Government Pleader with Mr. O.A. Chandurkar, Additional G.P. & Mr. S.L. Babar, AGP for the respondent Nos.1,2, & 4-State.

Mr. Sahil Ansari with Mr. Kailash N. Baug for respondent No.3.

CORAM : AMIT BORKAR, J.

RESERVED ON : MARCH 7, 2026.

PRONOUNCED ON : MARCH 24, 2026

JUDGMENT:

1. The petitioner, a co-operative housing society, has instituted the present writ petition impugning the judgment and orders passed by the Revisional Authority in exercise of its jurisdiction under Section 154 of the Maharashtra Co-operative Societies Act, 1960. By the said orders, the Revisional Authority has affirmed the decision rejecting the petitioner's application for issuance of a certificate under Section 154B-29 of the said Act.

2. By an order dated 5 January 2026, this Court issued notice under Rule 9 of the Contempt of Courts (Bombay High Court)

Rules, 1994 to the alleged contemnors, upon forming a prima facie view that a binding order of this Court had not been complied with and stood disobeyed.

3. The facts giving rise to the present petition, in brief, are that the petitioner-society had preferred an application under Section 154B-29 of the MCS Act on 5 April 2023, accompanied by requisite documents, seeking adjudication of its dues. Respondent No.2, by order dated 26 September 2023, rejected the said application. The rejection was founded on several grounds. It was observed that the order dated 28 June 2011 passed by this Court in Writ Petition No.925 of 2011 would cease to operate upon expiry of six months, and that such legal position had not been brought to the notice of the High Court. It was further noted that the petitioner-society had not challenged the order dated 17 February 1998 cancelling its registration. Additionally, it was recorded that the petitioner had failed to satisfactorily explain certain amounts deposited by respondent No.3 with the society. It was also noted that an earlier application under Section 101 had been rejected on 4 December 2012.

4. Being aggrieved thereby, the petitioner-society preferred Revision Application No.178 of 2023 before the Revisional Authority. The Revisional Authority, by its impugned order, confirmed the decision of respondent No.2. It reiterated the view that the interim orders dated 28 January 2011 and 28 June 2011 passed by this Court, staying the order of the Divisional Joint Registrar, would remain operative only for a period of six months, and that this aspect had not been brought to the notice of the High

Court. On this basis, it was concluded that the order cancelling the registration of the petitioner-society continued to subsist. It is in these circumstances that the present writ petition has been filed.

5. Upon consideration of the matter, this Court, by order dated 5 January 2026, issued notice under Rule 9 of the Contempt of Courts (Bombay High Court) Rules, 1994 to respondent Nos.1 and 2. The Court recorded a prima facie finding that the order dated 28 June 2011 in Writ Petition No.925 of 2011 was a final order disposing of the petition. The language employed therein clearly indicated that the ad-interim relief, staying the order of cancellation of registration, was to continue till the final disposal of the revision application. The interpretation adopted by respondent Nos.1 and 2 was found to be directly contrary to the express terms of the order passed by this Court. In view thereof, and having regard to the principles laid down by the Supreme Court in *Union of India vs. K.K. Dhawan, (1993) 2 SCC 56*, notice was issued calling upon them to show cause as to why departmental proceedings should not be initiated and why action under the Contempt of Courts Act should not be taken.

6. In response to the said notice, both in the writ proceedings and in the suo motu contempt proceedings, respondent Nos.1 and 2 have filed an affidavit. In the affidavit, they have tendered an unconditional apology. At the same time, they have sought to explain the circumstances which led to the passing of the impugned orders. It is contended that there was no wilful or deliberate disobedience of the order of this Court. The respondents submit that their observation regarding the limited duration of the

stay order was based on their understanding of the law laid down by the Supreme Court in *Asian Resurfacing of Road Agency Private Limited vs. Central Bureau of Investigation(2018) 16 SCC 299 and (2022) 1 SCC 299*. According to them, the error was bona fide and unintentional. They assert that there was no intention to overreach or disregard the authority of this Court. On this basis, they have prayed that their unconditional apology be accepted and that the contempt proceedings be dropped.

7. Mr. Lele, learned Advocate appearing on behalf of the petitioner, submitted that the order of this Court granting stay to the cancellation of registration of the petitioner-society had been specifically brought to the notice of respondent Nos.1 and 2. Despite this, the said respondents, in complete disregard of the final order of this Court, which according to him is clear and self-explanatory, proceeded to ignore and act contrary to the same. It is his submission that such conduct amounts to deliberate disobedience, thereby attracting action under the provisions of the Contempt of Courts Act. He further submitted that the petitioner-society is seeking recovery of an amount of Rs.32,57,777/-, being dues for the period from 1 October 2005 till 31 December 2022. According to him, the authorities under the Act have committed a patent error of law in rejecting the application preferred by the petitioner.

8. Per contra, Mr. Ansari, learned Advocate appearing for respondent No.3, supported the impugned order. He contended that the proceedings initiated by the petitioner against respondent No.3 are actuated with an intent to harass her. It is submitted that

respondent No.3 has incurred substantial expenditure towards repairs and waterproofing of the terrace and other common areas of the building. However, instead of reimbursing such expenditure, the petitioner-society has sought to recover maintenance charges from her. It is further submitted that, on the contrary, the petitioner is liable to pay an amount of approximately Rs.40 lakhs to respondent No.3, for which a civil suit has already been instituted. On these premises, it is contended that the impugned order does not warrant any interference and is in accordance with law.

9. Mr. Chandurkar, learned Additional Government Pleader, submitted that respondent Nos.1 and 2 have fairly admitted the error on their part. It is submitted that the impugned observations were made under a bona fide but erroneous understanding of the legal position, particularly in light of the judgment of the Supreme Court. He submitted that the respondents have tendered an unconditional apology and there was no intention to disobey or overreach the order of this Court.

REASONS AND ANALYSIS:

10. Having heard the learned Advocates for the respective parties, and for the purpose of adjudicating the issues arising in the present writ petition, it becomes necessary to set out the material facts in some detail. The matter raises a serious question about the respect that must be shown to an order of this Court, especially by authorities who are expected to know the law and apply it with care. The relevant sequence is as follows. The

petitioner-society was initially de-registered. Thereafter, by an order dated 2 July 2005, the society came to be re-registered. Subsequently, by an order dated 23 December 2010, the Divisional Joint Registrar set aside the order of re-registration. Aggrieved thereby, the petitioner preferred a revision application before the Minister for Cooperation, though no interim relief was granted therein. The petitioner, therefore, approached this Court by filing Writ Petition No.925 of 2011. By an order dated 28 January 2011, this Court stayed the operation of the order dated 23 December 2010 till the next date. Thereafter, by a further order dated 28 June 2011, this Court disposed of the writ petition with a direction to the Revisional Authority to decide the pending revision application expeditiously and within a stipulated period. It was further directed that the ad-interim order dated 28 January 2011 shall continue to operate till the revision application is heard and finally decided, without prejudice to the rights and contentions of the parties. This Court in paragraphs 2 and 3 observed as under:

> "2. In the light of the above, interest of justice will be service if this petition is disposed of with a direction to the Revisional Authority to dispose of the pending revision application as expeditiously as possible and within two months from the date of first appearance of parties.
>
> 3. Since both sides are represented before me, they are directed to appear before Revisional Authority on 1st July 2011 at 10.30 a.m. The Revisional Authority to then decide the application within two months from that date. *Ad-interim order dated 28th January 2011 to continue till the revision application is heard and disposed of but without prejudice to the rights and contentions of both sides.* It is clarified that this court has not expressed any opinion on

merits of the controversy."

11. It is an admitted position that the revision application filed before the Minister for Cooperation has not yet been decided and continues to remain pending.

12. The petitioner says that respondent Nos.1 and 2, despite having the earlier order of this Court before them, chose to read it in a manner which the order itself does not permit. According to the petitioner, this was not a mere error of reading. It was a clear disregard of a binding judicial direction. The petitioner therefore submits that the impugned orders are not only wrong on merits, but also show a tendency to overreach the authority of this Court.

13. The first aspect which requires careful attention is the true nature and effect of the order dated 28 June 2011. This was a final order by which the writ petition itself was disposed of. While doing so, the Court consciously protected the rights of the petitioner by directing that the earlier ad interim stay shall continue till the revision application is heard and finally decided. The language used by the Court is unambiguous. It does not leave scope for two interpretations. There is no indication anywhere that such protection was to last only for six months. There is also no suggestion that the stay would automatically come to an end by operation of law. Therefore, the order has to be read as it is written, and not in a manner convenient to the authority reading it later.

14. In this background, when respondent Nos.1 and 2 proceeded on the footing that the stay order expired after six months, it

cannot be said to be a possible view. It is not a case where two interpretations were equally available. What has been done is that something has been added into the order which the Court itself never stated. Such an approach is not permissible. When the Court has clearly indicated the duration of its order, it is not open for any authority to substitute that duration with another period based on its own understanding. That would amount to rewriting the order, which is beyond the authority of such officers.

15. The submission of the petitioner, therefore, deserves acceptance on this point. Once a Court passes a final order and specifically links the continuation of interim protection to the outcome of the revision proceedings, the authority dealing with that revision cannot ignore that clear command. It cannot fall back on general legal principles to defeat a specific direction. Law always gives primacy to what is directly ordered in a case. If general impressions from other judgments are allowed to override clear directions in a binding order, then no order will remain certain. Each authority will start applying its own understanding. That will lead to confusion and uncertainty in administration of justice, which cannot be permitted.

16. The petitioner has also pointed out that while rejecting the application under Section 154B-29, the authorities have travelled beyond the limited scope of the inquiry. The claim of the society was for recovery of specific dues, supported by documents, covering a defined period. The rejection, however, is not based on examination of those dues in the proper manner. Instead, it is largely influenced by the view that the earlier order of this Court

had come to an end. If that very basis is incorrect, then the entire reasoning built upon it becomes unsustainable. In such a situation, the rejection order cannot be allowed to stand, as it rests on a fundamentally erroneous assumption regarding the status of the Court's order.

17. The arguments advanced on behalf of respondent No.3 stand on a separate footing. The question here is not about the inter se financial disputes between the society and respondent No.3. The question is whether the authorities were justified in treating the order of this Court as having expired. If the answer to that question is in the negative, then the order passed by the authorities cannot be sustained, irrespective of any private disputes between the parties. A defective legal foundation cannot be cured by introducing unrelated factual disputes. The validity of the order must be tested on the reasons recorded in it, and not on external considerations.

18. I am, therefore, unable to accept the submission of respondent No.3 as a justification for the impugned order. Her claims, if any, can be pursued in accordance with law before the competent forum. But they cannot support an order which proceeds on a misunderstanding of a binding judicial direction.

19. The submission made on behalf of respondent Nos.1 and 2, through the learned Additional Government Pleader, also requires careful consideration. It is stated that the respondents have realised their mistake and have tendered an unconditional apology. It is further stated that their understanding was based on a

judgment of the Supreme Court, and that they were under a bona fide impression regarding the duration of stay orders. According to them, there was no intention to disobey the order of this Court. They say that the error was unintentional and arose out of a mistaken understanding of law.

20. This explanation cannot be accepted without scrutiny. Officers holding such positions are expected to read and apply orders of this Court with due care. A bona fide mistake may explain the conduct, but it does not completely justify it. The duty to follow the order as it stands remains, and any departure from it must be viewed with seriousness.

21. The idea of apology in contempt matters has been explained in detail by the Supreme Court in the case of *Balwantbhai Somabhai Bhandari v. Hiralal Somabhai (2023) 17 SCC 545*. The Court has looked into Section 12 of the Contempt of Courts Act, 1971, which provides for punishment in cases of contempt. At the same time, the proviso to that section gives power to the Court to discharge the person or reduce the punishment if an apology is made and the Court is satisfied with it. The Explanation further makes it clear that even if the apology is not fully unconditional, still it should not be rejected straightaway, so long as it is made in good faith. From this scheme of law, it becomes clear that accepting an apology is not something automatic. It is fully within the discretion of the Court. Even if the apology is conditional or not perfectly worded, the Court can still consider it, but only if it appears genuine. At the same time, such discretion cannot be exercised casually. The Court has to keep in mind that contempt

power is meant to protect the authority of the Court and to ensure that the system of justice is not disturbed.

22. In the present case, when the conduct of respondent Nos.1 and 2 is carefully seen, it appears that the matter is not a small or casual lapse. They were dealing with a direct order of this Court. Such order is not to be handled lightly. Officers in such position are expected to read every word properly and understand its meaning as it is written. Here, the order clearly stated that the ad interim protection would continue till the revision application is finally heard and decided. Therefore, to say that the stay came to an end after six months is not a proper reading of the order. It is something which the order itself does not say. It is also necessary to keep in mind that such officers cannot substitute the Court's words with their own perceptions. Especially when the order is passed in final disposal of a writ petition. If officers start changing the meaning of clear directions, then the authority of the Court will weaken.

23. The legal position on this aspect is already very clear from earlier decisions. The judgments in *East India Commercial Co. Ltd. v. Collector of Customs, Calcutta reported in AIR 1962 SC 1893*, *Bharadakanta Mishra v. Bhimsen Dixit reported in (1973) 1 SCC 446*, and *Priya Gupta v. Ministry of Health & Family Welfare, (2013) 11 SCC 404* leave no doubt. Authorities and tribunals working under the jurisdiction of this Court are bound to follow its decisions. They cannot choose which part to follow and which part to ignore. They also cannot say that because some other interpretation is possible, they will not follow the specific order

passed in the case before them. If such an approach is allowed, then the orders of this Court will lose their binding force. They will become like suggestions, which is not acceptable in law.

24. The judgment in *Union of India v. K.K. Dhawan,* (1993) 2 SCC 56 also throws light on this issue. It clearly says that even when an officer is acting in a quasi-judicial role, he is not completely protected from action. If his conduct shows lack of care, recklessness, or disregard for law, then action can still be taken. Applying these principles to the present case, the position becomes quite clear. Respondent Nos.1 and 2 were not deciding a complicated dispute requiring complex interpretation. They only had to give effect to an existing order of this Court. If there was some minor confusion, that could be understood. But here, they treated the order as expired on a ground which the order itself does not mention. This touches the authority of this Court directly. It also creates difficulty for the petitioner, who was entitled to rely on the protection granted by this Court. Further, it sends a wrong signal to other authorities, who are expected to strictly follow binding orders.

25. At the same time, I cannot ignore that respondent Nos.1 and 2 have filed an affidavit of apology. They have not denied their action. They have accepted that a mistake has occurred. They have explained that they were influenced by their understanding of another judgment. They have also stated that there was no intention to disregard the order of this Court. However, it is equally true that apology alone cannot remove the effect of the wrong. The Court must see whether the apology is genuine or only

a way to avoid consequences. In the present case, the apology does not fully remove the seriousness of the conduct. But it does show that the respondents are no longer standing by their earlier view. They have accepted that something went wrong.

26. The submission of respondent No.3 does not change this position. Her disputes with the society, whether about repairs or recovery of money, are separate issues. Those matters can be decided in proper proceedings. They cannot justify an order which is otherwise based on an incorrect understanding of a binding direction of this Court. Even if a party has a strong claim, it must still be pursued within the limits of law. It cannot support an action which ignores a clear order of the Court.

27. Looking at the entire material, only one conclusion is possible. The view taken by respondent Nos.1 and 2 that the stay order had come to an end after six months is not correct. The order of this Court clearly provided otherwise. The authorities were required to follow it till the revision application was decided. Their failure to do so cannot be approved. The petitioner was therefore right in challenging the action before this Court. Accordingly, I hold that the interpretation adopted by respondent Nos.1 and 2 was incorrect and contrary to the clear language of the order of this Court. Their conduct is serious in nature and is sufficient to attract contempt jurisdiction.

28. The next question which arises is whether the case warrants imposition of a punishment. In my view, the answer must be in the affirmative.

29. The conduct of respondent Nos.1 and 2 cannot be treated as a mere technical error. The order expressly directed that the interim protection shall continue till disposal of the revision application. In spite of this, the respondents proceeded to hold that the stay had lapsed after six months. Such a conclusion reflects lack of due care and proper application of mind. The position in law is well settled that authorities exercising quasi-judicial powers are bound by the orders of superior courts. In the present case, the petitioner was entitled to rely upon the order of this Court. By treating the order as having expired, the respondents effectively denied the petitioner the benefit of a judicial order. It is true that respondent Nos.1 and 2 have tendered an apology and have stated that their understanding was based on a judgment of the Supreme Court. However, the explanation does not fully answer the lapse. A impression of law cannot override a specific direction issued in a particular case. The duty of the authority was to apply the order as it stands. Failure to do so shows a negligence which cannot be ignored.

30. The law laid down in *Union of India v. K.K. Dhawan* makes it clear that even in the exercise of quasi-judicial functions, disciplinary action is permissible where there is recklessness, lack of good faith, or failure to observe essential conditions governing the exercise of power. The present case falls within that category. The error committed is not about the correctness of a decision on facts. It concerns the manner in which a binding judicial order was treated. In such circumstances, the ends of justice would be met by imposing a minor punishment. This would serve as a reminder of

the duty owed by all authorities to comply with judicial orders in their true letter and spirit. It would also ensure that such lapses do not recur.

31. For these reasons I am of the considered view that a minor punishment is warranted, so as to uphold the dignity of this Court and to ensure adherence to the rule of law.

32. In view of the aforesaid discussion and reasons recorded hereinabove, I proceed to pass the following order:

(i) The writ petition is partly allowed;

(ii) The impugned order dated 26 September 2023 passed by respondent No.2 and the order passed by the Revisional Authority in Revision Application No.178 of 2023 are quashed and set aside;

(iii) It is declared that the order dated 28 June 2011 passed by this Court in Writ Petition No.925 of 2011 continued to remain in operation till final disposal of the revision application, and the contrary view taken by respondent Nos.1 and 2 is held to be unsustainable;

(iv) The application filed by the petitioner under Section 154B-29 of the Maharashtra Co-operative Societies Act, 1960 is restored to the file of respondent No.2, who shall decide the same afresh, in accordance with law and in the light of observations made herein, within a period of twelve weeks;

(v) Having regard to the reasons recorded in

the judgment, respondent Nos.1 and 2 are held liable for minor punishment;

(vi) Accordingly, respondent Nos.1 and 2 are issued a formal censure. The competent authority shall place a copy of this order on their service record;

(vii) Respondent Nos.1 and 2 are directed to remain careful in future and to strictly adhere to binding judicial orders passed by this Court;

(viii) The suo motu contempt proceedings stand disposed of in the above terms;

(ix) Rule is made partly absolute. No order as to costs.

(AMIT BORKAR, J.)