



wp17002 of 2025
2026:BHC-AS:4181

AGK

ATUL
GANESH
KULKARNI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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ATUL GANESH
KULKARNI
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WRIT PETITION NO.17002 OF 2025

1. Aseem Bhatnagar,
Age 53 years, Adult, Indian Inhabitant,
(Being Ex-Secretary)
r/at Flat No.19, B-Wing, Sai Giri,
Sadan Giri CHS, Mohan Gokhale Road,
Near Oberoi International School,
Goregaon East, Mumbai 400 063
2. Smita Suryakant Moghe
3. Vijay Sarsukhlal Mehta ... Petitioners

V/s.

1. Deputy Registrar, Coop. Society,
P-South Ward, Mumbai.
2. The State of Maharashtra,
through it's Cooperative Department
3. N.K. Rajput
4. V.M. Kanap
5. Ajinkya Shinde
6. Sharad P. More
7. Meghana Gharat
8. Vaishali M.
9. B.G. Moya
10. Shashi Sharma
11. Johar Abbas
12. Neha Vedpathak
13. Surabhi Vedpathak
14. Neela Mhatre



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15. Poornima Phaltankar
16. Subodh Phaltankar
17. Sandeep Bhat
18. Pravin Patil
19. Manoj Krishnater
20. Sadan Giri CHS Limited
21. District Deputy Registrar,
Cooperative Societies (4), Mumbai. ... Respondents

Mr. Yatin Malvankar for the petitioners.

Mr. K.B. Dighe, Additional G.P. with Smt. Mamta S. Srivastava, AGP for respondent Nos.1 and 2-State.

Mr. Prashant Kulkarni with Mr. Arsh Misra for respondent Nos.3 to 19.

CORAM : AMIT BORKAR, J.

RESERVED ON FEBRUARY 5, 2026

PRONOUNCED ON : FEBRUARY 24, 2026

JUDGMENT:

1. By the present writ petition instituted under Article 227 of the Constitution of India, the petitioners have assailed the order dated 28 November 2025 passed by respondent No.21. By way of amendment, the petitioners have further challenged the order dated 1 January 2026 passed by respondent No.1 in exercise of powers under Section 81(6) of the Maharashtra Cooperative Societies Act, 1960.

2. Learned Advocate appearing for respondent Nos.3 to 19, along with the learned AGP, relying upon the judgments of the Coordinate Benches of this Court in *T.S. Natrajan v. Divisional*



Joint Registrar of Co operative Societies (Mumbai Division) and Others, Writ Petition No.8929 of 2024 decided on 2 July 2024, and *Sayajirao Narayan Takawane v. Divisional Joint Registrar, Cooperative Societies, Pune Division, Pune*, Writ Petition No.544 of 2025 decided on 4 February 2025, contended that the Coordinate Benches have categorically held that an order directing re audit under Section 81(6) constitutes an order. It is therefore submitted that the present matter falls within the jurisdiction of the Division Bench.

3. Per contra, learned Advocate for the petitioners submitted that the aforesaid Coordinate Bench decisions have not considered Circular dated 19 June 2023 issued by the Commissioner for Cooperation and Registrar, Cooperative Societies, which prescribes a detailed procedure to be followed by the Registrar before arriving at a decision directing re audit. It is urged that the said Circular mandates grant of an opportunity of hearing to the society and, therefore, an order passed under Section 81(6) bears the character of a quasi judicial order.

4. The submission advanced on behalf of the petitioners, in substance, invites this Court to take a view different from that adopted by the Coordinate Benches. At this stage, it becomes necessary to bear in mind the settled principles governing judicial discipline and binding precedent. The Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi* (2017) 16 SCC 680, while relying upon earlier authorities including *State of Bihar v. Kalika Kuer* (2003) 5 SCC 448, has reiterated that even if an earlier decision of a Coordinate Bench appears to have omitted



consideration of some aspect, the later Bench cannot disregard the same. The proper course is either to follow the earlier decision or to place the matter before an appropriate larger Bench.

5. The Supreme Court has further emphasised that the easy course of treating an earlier judgment as per incuriam is impermissible and that certainty in law requires adherence to precedent. The principles enunciated in *Jaisri Sahu v. Rajdewan Dubey* AIR 1962 SC 83, *Pradip Chandra Parija v. Pramod Chandra Patnaik* (2002) 1 SCC 1 and *Chandra Prakash v. State of U.P.* (2002) 4 SCC 234 make it clear that judicial consistency is a fundamental requirement of the system and that a Bench of coordinate strength cannot take a contrary view merely because another aspect is sought to be highlighted.

6. Applying the aforesaid principles, once Coordinate Benches of this Court have taken a view on the nature of an order passed under Section 81(6), judicial discipline requires that the matter be placed before the appropriate Bench competent to consider the issue. This Court, sitting singly, cannot enter into an examination which may result in a view inconsistent with the existing binding precedents of Coordinate Benches.

7. At the same time, the contention raised by the petitioners based on the Circular dated 19 June 2023 and the quasi judicial character of the impugned action raises a point which the petitioners seek to urge for consideration. In view of the law laid down by the Supreme Court, it would be appropriate that such contention remains open to be agitated before the Division Bench,



which may consider the issue in accordance with law.

8. In the above circumstances, without expressing any opinion on the merits of the rival submissions, the following order is passed:

- (i) The Registry shall place the present writ petition before the appropriate Division Bench as per roster;
- (ii) All contentions of the parties, including the contention of the petitioners that an order passed under Section 81(6) of the Maharashtra Cooperative Societies Act, 1960 is quasi judicial in nature in view of Circular dated 19 June 2023, are kept open to be urged before the Division Bench;
- (iii) It is clarified that this Court has not expressed any opinion on the merits of the controversy.

(AMIT BORKAR, J.)