



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2009 of 2025

Nilesh Dilip Jagtap

...Petitioner

V/s.

Divisional Joint Registrar, Co-
operative Societies, Pune Division,
Pune and Ors.

...Respondents

WITH
INTERIM APPLICATION NO.11400 OF 2025
IN
REVIEW PETITION (stamp) NO.29430 OF 2025
IN
WRIT PETITION NO.14371 OF 2022

Sandesh Baccharam Bhapkar and Ors.

...Petitioners

V/s.

State of Maharashtra and Ors.

...Respondents

Dr. Milind Sathe, *Advocate General with Ms. P.G. Gavhane, AGP for Respondent -State.*

Mr. Sagar Kursija *i/b. Mr. Ronak Utagikar for the Petitioner in WP/2009/2025.*

Mr. Shailendra Kanetkar *with Mr. Pranay Kothari for Respondent Nos.4 to 16 in WP/2009/2025 and for Petitioner in RPWST/29430/2025.*

Ms. Shraddha Pawar *with Mr. Rushikesh Salunkhe i/b. Mr. Dilip Bodake for Respondent No.2 in WP/2009/2025 and for Respondent No.4 in RPW(ST)/29430/2025.*

CORAM: SANDEEP V. MARNE, J.

Judgment reserved on: 8 JULY 2026.

Judgment pronounced on: 15 JULY 2026.

JUDGMENT:

1) The common issue that arises for consideration in the Review Petition and the Writ Petition is the authority before whom the Revision Application would lie when the order sought to be revised is passed by the District Deputy Registrar in exercise of delegated power of a Registrar. Whether such revision would lie before the Divisional Joint Registrar or before the State Government? Since the Review Petition and the Writ Petition arise out of the same proceedings and involve same question for determination, they are taken up for analogous hearing and decision.

2) Briefly stated, facts of the case are that of elections to the managing committee of Swayambhu Vividha Karyakari Seva Sahakari Sanstha Maryadit (**Society**) were held and result were declared on 15 April 2022. Petitioners in Writ Petition No.14371 of 2022 were declared elected and the committee was constituted. Mr. Nilesh Jagtap (Petitioner in WP No. 2009 of 2025), who was one of the defeated candidates, filed a complaint with the District Co-operative Election Officer seeking disqualification of the elected members on the ground that they had failed to lodge accounts of election expenditure. By Order dated 15 November 2022, the District Deputy Registrar-cum-District Co-operative Election Officer disqualified the elected members under Rule 66 of the Maharashtra State Co-operative Societies (Election to Committee) Rules, 2014 (**MCS Election Rules**). Writ Petition No. 14371 of 2022 was filed challenging the Order dated 15 November 2022 by the elected members. The Petition was opposed by Mr. Nilesh Jagtap *inter*

alia on the ground of availability of alternate remedy of filing revision under Section 154 of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**).

3) By the judgment and order dated 27 September 2023 passed in Writ Petition No.14371 of 2022, this Court held that an alternate remedy under Section 154 of the MCS Act was available before the State Government against order dated 15 November 2022 passed by the District Deputy Registrar disqualifying the Petitioners therein. However, instead of relegating the Petitioners to the alternate remedy, this Court set aside order dated 15 November 2022 and remanded the proceedings to District Deputy Registrar-cum-District Co-operative Election Officer for being decided afresh. In the remanded proceedings, the District Deputy Registrar-cum-District Co-operative Election Officer has passed order dated 16 July 2024 once again disqualifying the Petitioners of Writ Petition No.14371 of 2022 under Rule 66 of the MCS Election Rules. In accordance with the observations made by this Court in the order 27 September 2023, the disqualified members have exercised the remedy of revision against order dated 16 July 2024. However, contrary to the observations made by this Court that revision would lie before the State Government, the revision has been filed before the Divisional Joint Registrar. The Complainant-Mr. Nilesh Jagtap raised his objections to the maintainability of revision before the Divisional Joint Registrar. By order dated 22 January 2025, the Divisional Joint Registrar has rejected the Application filed by Mr. Nilesh Jagtap and has held the revision to be maintainable. Aggrieved by order dated 22 January 2025, Mr. Jagtap has filed Writ Petition No.2009 of 2025.

4) During the course of hearing of Writ Petition No.2009 of 2025, it was sought to be urged on behalf of the disqualified members that the revision against order passed by the Deputy Registrar can only lie before the Divisional Joint Registrar. However, the observations made by this Court in order dated 27 September 2023 about maintainability of revision before the State Government were coming in the way of disqualified members in prosecuting their revision before the Divisional Joint Registrar. Accordingly, the disqualified members/Petitioners of Writ Petition No.14371 of 2022 have sought review of order dated 27 September 2023 to the limited extent of this Court observing that the remedy of revision against the order of District Deputy Registrar-cum-District Cooperative Election Officer would lie before the State Government. Accordingly, Review Petition (stamp) No.29430 of 2025 is filed. There is delay of 667 days in filing the Review Petition for condonation of which Interim Application No.11400 of 2025 is filed.

5) The disqualified members (Review Petitioners) have thus taken a stand that the Revision against the order passed by the District Deputy Registrar would lie before the Divisional Joint Registrar whereas the Petitioner in the Writ Petition has contended that such Revision would lie only before the State Government since the District Deputy Registrar has passed the Order in exercise of delegated power of Registrar. It was sought to be suggested by the learned counsel appearing for Writ Petitioners that against every order passed by the Assistant, Deputy or District Deputy Registrar while exercising delegated powers of Registrar, the Revision would lie only before the State Government. It was noticed that under the various Notifications issued by the State Government appointing various officers to assist the Registrar and specifying the

local limits of their operations, they have been conferred substantial powers exercisable by the Registrar. The argument presented on behalf of the Writ Petitioner would virtually mean that no revision would lie before the Divisional Joint Registrar and flooding the State Government with all the Revisions arising throughout the State, thereby resulting in an incongruous situation.

6) In the light of the intricate issue involved in the present proceedings having wider ramifications, this Court requested the learned Advocate General by order dated 1 July 2026 to address the Court and render his assistance for effective resolution of the issue involved in the proceedings.

7) Dr. Sathe, the learned Advocate General, appearing for the Respondent-State submits that the Deputy Registrar or District Deputy Registrar is subordinate to the Registrar of the Co-operative Societies under the provisions of Section 3 of the MCS Act. He submits that even though powers of Registrar are conferred on the Deputy Registrar, he continues to remain subordinate to the Registrar, who can exercise superintendence and control over the Deputy Registrar. That therefore order passed by the Deputy Registrar does not become an order of the Registrar. That the statutory scheme of the MCS Act is such that it is permissible to confer powers of Registrar on subordinate officers while Registrar continues to exercise power of superintendence and control over such subordinate officer. He submits that under the hierarchical structure, the posts of Registrar, Special Registrar, Additional Registrar and Divisional Joint Registrar fall into the category of the 'Registrar' whereas posts of Assistant Registrar, Deputy Registrar and District

Deputy Registrar are posts subordinate to the posts of Registrar. That therefore orders passed by the Assistant Registrar, Deputy Registrar and District Deputy Registrar are amenable to revisional jurisdiction of the Divisional Joint Registrar. He relies on judgment of this Court in **Krishnarao Bakaramji Hadge V/s. State of Maharashtra**¹ in support of his contention that when Assistant Registrar passes order exercising powers of Registrar without seeking approval of Registrar, revision would lie before the Registrar. Dr. Sathe submits that similar issue is also decided by the Hon'ble Apex Court in **Chintapalli Agency Taluk Arrack Sales Cooperative Society Ltd. and Others V/s. Secretary (Food and Agriculture) Government of Andhra Pradesh and Others**², in which it is held that though Deputy Registrar exercises powers as Registrar, he always remain under the general superintendence of Registrar and that therefore Registrar can exercise power of revision over order passed by the Deputy Registrar. He also relies on judgment of this Court in **Malad Cooperative Housing Society Limited and Another V/s. State of Maharashtra and Others**³ in support of his contention that delegation of power under the MCS Act under Section 158 does not make a subordinate officer equivalent to the Registrar.

8) Dr. Sathe places on record Notification dated 24 November 2021, which is applicable in the present case and submits that Notification dated 11 September 2012 referred to in paragraph 18 of the judgment under review was already superseded by Notification dated 24 November 2021. He submits that under the Notification dated 24 November 2021, the State Government has appointed Deputy Registrar and Assistant

1 (1966) 69 Bom LR 150

2 (1977) 4 SCC 337

3 2026 SCC OnLine Bom 2631

Registrar in Taluka /Wards to assist the Registrar and has conferred on them powers of Registrar as enumerated in Column 3 of the Schedule in the area specified in Column 4 thereof. That in the present case, Deputy Registrar-cum-District Co-operative Election Officer has exercised power conferred under Notification dated 24 November 2021 while passing order dated 15 November 2022.

9) Dr. Sathe accordingly concludes by submitting that though the District Deputy Registrar has exercised power under Rule 66 of the Election Rules, he still remains under control and supervision of the Registrar and that therefore, revision against the decision of the District Deputy Registrar would lie before the Divisional Joint Registrar and not before the State Government.

10) Mr. Kanetkar, the learned counsel appearing for the Review Petitioners, who are also the contesting Respondents in Writ Petition No.2009 of 2025, submits that the Judgment and Order dated 27 September 2023 needs to be reviewed to the limited extent of clarifying that the revision would lie before the Divisional Joint Registrar and not before the State Government. He also prays for condonation of delay in filing the Review Petition submitting that the delay is caused essentially due to occurrence of subsequent events resulting in confusion about the exact authority before whom the revision would lie.

11) Mr. Kanetkar further submits that the Revision under Section 154 of the MCS Act against order passed by the Deputy Registrar would lie before the Divisional Joint Registrar. He submits that this Court has essentially decided the issue of availability of alternate remedy against

order passed by the Deputy Registrar-cum District co-operative Election officer under Section 154 of the MCS Act and that the exact authority before whom such alternate remedy would lie was not the issue for consideration before this Court. That none of the parties had canvassed submissions about exact authority before whom the revision would lie. He invites attention of this Court to the Notification dated 11 September 2012 referred to in paragraph 18 of the judgment under review and submits that since the Deputy Registrar has exercised power of disqualification under Rule 66 of the Election Rules, the Revision would not lie to the State Government as Section 154(2) provides for revision to the State Government only if the order is passed by Registrar /Additional Registrar or Joint Registrar. He submits that the observations made by this Court in paragraphs 29 to 30 of the judgment about alternate remedy of revision before the State Government suffers from an obvious error, which is apparent on face of record. He therefore prays for review of the judgment dated 27 September 2023 and seeks clarification that the revision would lie before the Divisional Joint Registrar. He submits that once the observations in the judgment are reviewed, order passed by the Divisional Joint Registrar on 22 January 2025 rejecting maintainability application of the Complainant would automatically be validated, warranting dismissal of Writ Petition No.2009 of 2025.

12) Mr. Kursija, the learned counsel appearing for the Petitioner in Writ Petition No.2009 of 2025, who is also Respondent No.6 in Review Petition, submits that this Court has correctly held that the revision against order of disqualification passed by the Deputy Registrar -cum- District Co-operative Election Officer would lie before the State Government. He submits that the District Deputy Registrar has exercised

powers of Registrar under Rule 66 of the Election Rules. He relies on Notification dated 11 September 2012 in support of his contention that Column 4 of the Schedule appended thereto confers ‘*all powers of the Registrar under the Act and the Rules*’ on District Deputy Registrar, whose post has been created by the said Notification. That thus, the District Deputy Registrar exercises delegated powers of Registrar under Rule 66 of the MCS Election Rules. He relies on provisions of Section 158 of the MCS Act in support of his contention that there is delegation of powers of Registrar to the District Deputy Registrar. He relies on judgment of Single Judge of this Court in ***Krishnarao Bakaramji Hadge*** (supra) in support of his contention that Divisional Joint Registrar cannot exercise revisional jurisdiction to examine the legality of order passed by the District Deputy Registrar or by any officer subordinate to the Divisional Joint Registrar as a delegatee of the Registrar. He also relies on judgment of the Apex Court in ***Behari Kunj Sahkari Awas Samiti & Anr vs State of U.P. & Ors.***⁴ in support of his contention that when an authority passes an order with the approval of the higher authority the revision against such order is not maintainable before the approving authority. He submits that since the Deputy Registrar has exercised powers of Registrar, Divisional Joint Registrar entertaining revision would virtually tantamount to exercise of powers of review. Mr. Kursija accordingly prays for dismissal of the Review Petition and for setting aside order dated 22 January 2025 and seeks dismissal of the Revision pending before the Divisional Joint Registrar.

13) Rival contentions on the issue of the authority before whom the remedy of revision would lie, now fall for my consideration.

4 1997 (7) SCC 37

14) There is delay of 667 days in filing the Review Petition. As observed above, the issue involved in the Review Petition and in Writ Petition No.2009 of 2025 is the same viz., the exact authority before whom revision against order passed by District Deputy Registrar-cum-District Co-operative Election Officer would lie. The issue is, can this be decided in either of the proceedings. Even if the delay is not condoned and the Review is dismissed on that count, the issue will still have to be decided in the Writ Petition on merits. Hence in order to decide the issue, it would be just and proper to condone the delay in filing the Review Petition so that the same can be decided on merits. Delay has essentially occurred on account of the fact that disqualified members first defended the proceedings before the District Deputy Registrar in the proceedings remanded by this Court. They were thereafter required to file Revision against the order of the District Deputy Registrar, which they were advised to file before the Divisional Joint Registrar. They defended objection of maintainability raised by the Complainant. After the objection of maintainability was repelled, Writ Petition No.2009 of 2025 is filed by the Complainant and during the course of hearing of that Petition, it transpired that observations made in the order under review suggest as if the revision would lie only before the State Government. In that view of the matter, I deem it appropriate to condone the delay in filing the Review Petition.

15) The elected members of the Society are aggrieved by their disqualification as members of the Managing Committee for a period of three years under the provision of Rule 66 of the MCS Election Rules. Their disqualification was initially ordered by the District Co-operative

Election Officer-cum-District Deputy Registrar, Co-operative Societies, Pune (Rural), Pune by order dated 15 November 2022. They assailed order dated 15 November 2022 by filing Writ Petition No.14371 of 2022. Entertainability of Writ Petition was questioned by the Complainant-Mr. Nilesh Jagtap on the ground of availability of alternate remedy of revision under Section 154 of the MCS Act. This Court analysed the provisions of Rules 65, 66 and 67 of the Election Rules as well as the definition of the term 'the District Co-operative Election Officer' in Rule 2(8). After examining the powers of the State Co-operative Election Authority under Rule 3, this Court arrived at a conclusion that initiation of proceedings under Rule 66 of the MCS Election Rules is by the District Co-operative Election Officer, who first needs to record a satisfaction that there is failure in lodging account of election expenses within the prescribed time and as per particulars specified in Rule 67 of the Election Rules. However, in the judgment dated 27 September 2023, it appears that provisions of unamended Rule 66 are quoted. After amendment w.e.f. 6 August 2018, Rule 66 of the MCS Election Rules read thus:

66. Disqualification for failure of lodge account of election expenses.

(1) If the District Co-operative Election Officer is satisfied that a person,-

- (a) has failed to lodge an account of election expenses within the time and in the manner required by the last preceding section, and
- (b) has no good reason or justification for the failure, the District Co-operative Election Officer or Taluka or Ward Co-operative Election Officer, as the case may be, shall submit report to the Registrar and after receipt of such report, the concerned Registrar after providing an opportunity of being heard shall, by order, declare him to be disqualified for being elected as, and for being, a member of the committee of any society, and any such person shall be disqualified for a period of three years from the date of the order.

16) The change brought about by 2018 amendment is to empower even Taluka or Ward Co-operative Election Officer to submit report to the Registrar under clause (b) of Rule 66(1) of the MCS Election Rules. Be that as it may. This Court proceeded to hold in paragraph 16 of the judgment under review that theoretically the Deputy Registrar proceeded to hold in paragraphs 16 and 20 of the judgment under review as under:

16. However under Rule 66, though the District Cooperative Election Officer is empowered to record a satisfaction that there is failure by a candidate to lodge the account of election expenses within time and as per particulars specified in Rule 67, the ultimate jurisdiction of taking the decision of disqualification is vested in the Registrar. Thus there is transfer of proceedings from SCEA machinery to the Registrar appointed under the Act of 1960 within Rule 66. The jurisdiction of District Cooperative Election Officer is restricted to recording of satisfaction about failure to lodge and examining the reasons / justification for delay in lodging the account of election expenses. He has to thereafter make a report to the Registrar, who alone is empowered to make a declaration of disqualification.

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20. As observed above, under Rule 66 of the Election Rules, the Registrar is empowered to take a decision of disqualification of member of a Committee. Thus, the Deputy Registrar has exercised powers as Registrar under Rule 66 while passing the order dated 15/11/2022. It is thus Registrar's decision and not of District Cooperative Election Officer.

17) This Court accordingly held that the Deputy Registrar exercises powers of Registrar under Rule 66 of the MCS Election Rules while passing an order of disqualification. This is how this Court held that a revision would be maintainable against the decision of the Deputy Registrar disqualifying an elected member under Rule 66 of the Election Rules. This Court concluded in paragraph 23 of the judgment under review as under:

23. A conclusion is already recorded that the decision of making deliration of Petitioners' disqualification is taken by the Deputy Registrar in exercise of delegated powers of Registrar. I am therefore of the view that a Revision under Section 154 would be maintainable against decision taken by a Registrar (or by Deputy Registrar of Cooperative Societies while exercising delegated powers of the Registrar) under Rule 66 of the Election Rules. This answers the first issue.

18) However, in paragraphs 29 and 30 of the judgment, this Court has made observations that Revision under Section 154 of the MCS Act would lie before the State Government. The observations in paragraphs 29 and 30 read thus:

29. In ordinary course, since this error on the part of Deputy Registrar / Registrar is capable of being corrected in **Revision filed before the State Government**, this Petition could be disposed of relegating Petitioners to the alternate remedy of revision. ...

30. Therefore, though there is an alternate **remedy available for the Petitioners to file Revision under Section 154 of the Act of 1960 before the State Government**, considering the peculiar facts and circumstances of the case where reasons or justifications given by the Petitioners for failure to lodge accounts of election expenses within 60 days have not at all been examined by the Deputy Registrar-cum-District Cooperative Election Officer, the proceedings are required to be remanded rather than relegating Petitioners to alternate remedy of Revision under Section 154 of the Act of 1960. ...

(emphasis added)

19) It must be observed that the issue for consideration before this Court while deciding Writ Petition No.14371 of 2022 was limited only with regard to the availability of remedy of revision against order passed by the District Deputy Registrar under Rule 66 of the MCS Election Rules. This Court was not called upon to answer the issue of exact authority before whom such revision would lie. In fact, the occasion for deciding the issue of the authority before whom the revision would lie never arose before this Court as it remanded the proceedings to District Deputy

Registrar for being decided afresh. In that sense, observations in paragraphs 29 and 30 about maintainability of the Revision before the State Government cannot be read to mean as if this Court has decided the issue about the authority before whom the revision would lie. I proceed to consider whether a case is made out for recall of those observations in the judgment under review while analogously deciding the same issue directly raised in Writ Petition No. 2009 of 2025.

20) To decide the issue, it would be apposite to consider the provisions of the MCS Act, under which the Registrar and various other officers are appointed. Section 3 of the MCS Act provides for appointment of Registrar and his subordinates and provides thus:

3. Registrar and his subordinates

The State Government may appoint a person to be the Registrar of Co-operative Societies for the State; and may appoint one or more persons to assist such Registrar, with such designations, and in such local areas or throughout the State, as it may specify in that behalf, and may, by general or special order, confer on any such person or persons all or any of the powers of the Registrar under this Act. **The person or persons so appointed to assist the Registrar and on whom any powers of the Registrar are conferred, shall work under the general guidance, superintendence and control of the Registrar. They shall be subordinate to the Registrar**, and subordination of such persons amongst themselves shall be such as may be determined by the State Government.

(emphasis and underlining added)

21) Thus, Section 3 of the MCS Act is in three parts. The first part deals with appointment, the second part deals with conferment of powers and the third part deals with supervision /control/ guidance over the person so appointed. In the first part, the State Government can appoint a person to be the Registrar of Co-operative Societies for the State.

Additionally, the State Government can also appoint one or more persons to assist such Registrar with different designations and for different local areas throughout the State. In the second part, the State Government can, by general or special order, confer on person appointed to assist the Registrar all or any of the powers of the Registrar under the MCS Act. However, the third part of Section 3 makes it clear that the person appointed to assist the Registrar, on whom powers of Registrar are conferred, continues to work under general guidance, superintendence and control of the Registrar. The third part also makes it clear that such person shall always be subordinate to the Registrar. Thus, persons appointed to assist the Registrar not only work under his supervision and control but are in fact subordinate to him. Mere conferment of powers of Registrar on such persons does not elevate their status to that of Registrar nor the decisions taken by them in exercise of powers of Registrar become the decision of the Registrar. The decisions taken by them would continue to be the decision taken by an officer subordinate to the Registrar.

22) The State Government has issued various orders in exercise of powers conferred under Section 3 of the MCS Act appointing persons to assist the Registrar and conferring on them powers of Registrar by specifying the area for exercise of such powers. Said orders are issued from time to time beginning from 6 October 1981. One such Notification /order dated 11 September 2012 is referred to in paragraph 18 of the judgment under review. Dr. Sathe has placed on record copy of subsequent Order dated 24 November 2021, which supersedes all previous Orders including the Order dated 11 September 2012. Under Order dated 24 November 2021, the State Government has appointed a

Special Registrar of Co-operative Societies at Headquarters, who exercises powers of Registrar excepting the ones indicated in Column 3 to the Schedule in the area of the whole State. The State Government has also appointed an Additional Registrar of Co-operative Societies at the Headquarters for the whole State. The State Government has appointed Divisional Joint Registrars of Co-operative Societies for each Division in the State and has conferred on them all powers of Registrar excepting the one indicated in Column 3 of the Schedule. Similarly, the District Deputy Registrars are appointed for each of the Districts and four District Deputy Registrars are appointed for city of Mumbai and a District Deputy Registrar is appointed for Pune and Pimpri Chinchwad Municipal Corporation. For Talukas/ Wards, the Deputy Registrars and Assistant Registrars are appointed to exercise all powers of Registrar excepting the one indicated in Column 3 of the Schedule.

23) Dr. Sathe has clarified that the Assistant Registrar, Deputy Registrar and District Deputy Registrars form a homogeneous class for the purpose of their subordination to the Registrar, Special Registrar, Additional Registrar and Divisional Joint Registrar, who form another homogeneous class. Therefore, though Assistant Registrar, Deputy Registrar or District Deputy Registrar may be conferred powers of Registrar under Section 3 of the MCS Act, they continue to remain subordinate to the Registrar, and also to the Divisional Joint Registrar, since they work under general guidance, supervision and control of the Registrar. As observed above, mere conferment of power of Registrar does not elevate them to the status of Registrar and they continue to remain subordinate to the Registrar.

24) Under Section 158 of the MCS Act, the State Government can delegate powers of Registrar to any officer or authority. Section 158 of the MCS Act provides thus:

158. Delegation of power of Registrar to certain authorities and officers

The State Government may, by notification in the *official Gazette*, and subject to such conditions (if any) as it may think fit to impose, delegate all or any of the powers of the Registrar under this Act to any federal authority or to an officer thereof or to any other authority **and such officer or authorities shall work under the general guidance, superintendence and control of the Registrar specified in the notification.**

(emphasis added)

25) Thus, even in Section 158 of the MCS Act, while recognizing the power of delegation, the provision makes it explicitly clear that the delegatee officer continues to function under the general guidance, superintendence and control of the Registrar. Therefore, though the powers of Registrar can be delegated to an officer or authority under Section 158 of the Act, such officer or authority still works under the general guidance, superintendence and control of the Registrar while exercising the delegated powers. As observed above, Section 3 of the MCS Act makes such officer subordinate to the Registrar. Thus, provisions of Sections 3 and 158 of the MCS Act, when read harmoniously, lead to an inescapable conclusion that the decisions taken and orders passed by the delegatee officers under the Act while exercising the powers of the delegating officer, continue to be the decisions/orders of the subordinate officer, capable of being revised by the Registrar.

26) In **Chintapalli Agency** (supra) provisions of Andhra Pradesh Cooperative Societies Act, 1964 fell for consideration before three Judge Bench of the Hon'ble Apex Court. Under Section 3 of the Andhra Pradesh Cooperative Societies Act, there is *pari materia* provision for appointment of Registrar of Co-operative Societies Act and every person to work under general superintendence of Registrar. The issue before the Apex Court was whether revision against order passed by the Deputy Registrar was amenable before the Registrar since the Deputy Registrar had exercised delegated powers of the Registrar. Reliance was placed on judgment of the Apex Court in **Roop Chand V/s. State of Punjab** ⁵ in which it was held that when an officer acts as a delegatee of the Government, he exercises statutory power of appeal of the Government. The Apex Court distinguished its judgment in **Roop Chand** and held that statutory scheme in Andhra Pradesh Cooperative Societies Act was entirely different where though Deputy Registrar exercises power of a Registrar, but he always remains under general superintendence of the Registrar. The Apex Court held that the scheme of State Government-East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 in **Roop Chand's** case was different from Andhra Pradesh Cooperative Societies Act. The Apex Court held in paragraphs 19 and 20 of the judgment as under:

19. Roop Chand's case (supra) is clearly distinguishable since there under section 41(1) of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, the State Government appoints persons and delegates its powers or functions under the Act to such officers. When, therefore, an officer acts as a delegate of the State Government he exercises statutory power of appeal of the Government under section 21 (4) of the Act. This Court observed, in that case:

5 1963 Supp 1 SCR 539

".... such a power when delegated remains the power of the Government, for the Government can only delegate the power given to it by the statute and cannot create an independent power in the officer. When the delegate exercises the power, he does so for the Government".

20. In the present case it is true the power under section 16 is that of the Registrar but the Deputy Registrar exercises that power as empowered by the Government but always "under the general superintendence of the Registrar". Again, under section 76(2) any order passed in pursuance of the power so exercised under section 16 is appealable to the Registrar as an order passed by "any other officer" appointed under section 3(1). The scheme of the Consolidation Act which this Court had to deal with in Roop Chand's case (supra) is different from that of the Co-operative Act. The submission of counsel that the Registrar's order in revision is a nullity is devoid of substance.

27) As early as in the year 1966, a Division Bench of this Court in ***Krishnarao Bakaramji Hadge*** (supra) has interpreted the provisions of Section 3 of the MCS Act in the context of revision remedy under Section 154 of the MCS Act. In that case, the Assistant Registrar had exercised jurisdiction under Section 91 of the MCS Act in exercise of powers conferred under Section 3 of the MCS Act. The issue before the Division Bench was whether the Registrar could exercise power of revision against order of Assistant Registrar. This Court held in paragraphs 8 and 9 of the judgment as under:

8. Section 3 provides for delegation of powers of the Registrar to any subordinate officer by the State Government, either by general or special order. It further provides that a person or persons so appointed to assist the Registrar and on whom any powers of the Registrar are conferred, shall work under the general guidance, superintendence and control of the Registrar. **This section makes it clear that even if the Assistant Registrar is empowered to exercise the powers of the Registrar, even so the Assistant Registrar works under the guidance, superintendence and control of the Registrar himself. He is clearly, therefore, subordinate to the Registrar. It is not possible to contend that merely because the Assistant Registrar exercises the**

delegated powers of the Registrar, his order must be taken to be the order of the Registrar. Under the Act, all the duties are cast on the Registrar. There is no statutory duty cast on the Additional or Deputy Registrar or Assistant Registrar as such. In all these cases, therefore, where delegated powers are exercised, they are exercised by virtue of s.3, and in many cases the powers exercised are powers of the Registrar. Even so, all these officers are subordinate to the Registrar as shown by s.152 which provides the forum of appeal against the orders made by respective officers. Section 152(1) states that-

“ An appeal against an order or decision under Sections 4, 9, 11, 12, 13, 14, 17, 18, 19, 21, 29, 35, 78 and 105 shall lie,-

(a) if made or sanctioned or approved by the Registrar, or the Additional or Joint Registrar on whom powers of the Registrar are conferred, to the State Government,

(b) if made or sanctioned by any person other than the Registrar, or the Additional or Joint Registrar on whom the powers of the Registrar are conferred, to the Registrar.

9. In the present case, the order is made by the Assistant Registrar. If it is made with the approval of the Registrar, then the revisional jurisdiction must, on the principles of this section, lie to the State Government, because, in that case, it becomes virtually the order of the Registrar. If, however, the order is made by the Assistant Registrar without reference to the Registrar, then the revision application will lie to the Registrar. In every case, whether the revision lies to the State Government or to the Registrar must, in view of s.152 depend upon whether the order was made with the approval or sanction of the Registrar. All are agreed before us that, in the present case, the order was passed by the Assistant Registrar on his own without the sanction or approval of the Registrar. In accordance with the principles laid down by us, the revisional jurisdiction will, therefore, be of the Registrar.

(Emphasis supplied)

28) Thus, as held in ***Krishnarao Bakaramji Hadge*** (supra), even if the Assistant Registrar is empowered to exercise powers of the Registrar, he still works under guidance, supervision and control of the Registrar and remains subordinate to the Registrar. It is held that merely because Assistant Registrar exercises the delegated powers of the Registrar, his order cannot be taken as order of the Registrar. It is further held that only if the order is made by the Assistant Registrar with the approval of the Registrar, revisional jurisdiction would lie to the State Government

since the said order becomes virtually the order of the Registrar. However, when Assistant Registrar makes an order without approval of the Registrar, the revision application would lie before the Registrar. In my view, judgment in *Krishnarao Bakaramji Hadge* (supra) provides complete answer to the issue involved in the present proceedings. It must however be added here that after delivery of the Division Bench judgment in *Krishnarao Bakaramji Hadge* (supra) on 27 July 1966, provision of Section 3 of the MCS Act are amended by inserting the following portion:

They shall be subordinate to the Registrar, and subordination of such persons amongst themselves shall be such as may be determined by the State Government.

Thus, in tune with what is observed by the Division Bench in *Krishnarao Bakaramji Hadge*, now there is statutory declaration of subordination of assisting officers to the Registrar.

29) The judgment in *Krishnarao Bakaramji Hadge* (supra) is followed by Single Judge of this Court in *Malad Cooperative Housing Society Limited and Another V/s. State of Maharashtra and Others*⁶ in which a contention was canvassed that the District Deputy Registrar exercises power as a delegatee of a Registrar under Section 158 of the MCS Act and that therefore the Divisional Joint Registrar had no jurisdiction to entertain a revision application against such order. The submission was canvassed by relying on judgment of this Court in *Bajarang Labour Cooperative Society, Mahagaon (Z) vs. Divisional Joint Registrar of Cooperative Societies, Nagpur and Others*⁷. The submission was

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7 2016 (2) Mh.L.J. 849

countered by the opposing parties placing reliance on judgment of Division Bench of this Court in ***Krishnarao Bakaramji Hadge*** (supra). This Court held in paragraphs 44 and 54 as under:-

44. The only harmonious reading is that a subordinate officer exercises powers delegated from the Registrar, such officer remains subordinate, and his order continues to be his order as subordinate officer, though passed in exercise of delegated power. Such order therefore is amenable to revision under Section 154 depending upon the rank of officer. Sections 3 and 158 clearly establish that delegation of powers under the Act does not make the subordinate officer equivalent to the Registrar. They permit exercise of specified powers while preserving supervision and control. Section 154 indicates that the Act contemplates revisional scrutiny over orders passed by subordinate officers notwithstanding that such officers may have exercised powers originally vesting in the Registrar. Hence, the revisional jurisdiction exercised in the present matter cannot be faulted on that count.

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54. Further support to the aforesaid interpretation is also available from the judgment of the Division Bench of this Court in *Cipla Limited v. Competent Authority and the District Deputy Registrar, Co operative Society and Others*, reported in 2021 SCC OnLine Bom 622, wherein while considering the scheme of the Maharashtra Cooperative societies Act and the status of officers functioning thereunder, the Division Bench has reiterated the distinction between the Registrar and subordinate officers functioning below him. In paragraphs 131 to 133 of the said judgment, the Division Bench took note of the position of Registrars and subordinate officers and observed that the office of the Deputy District Registrar is not at par with the post of the Registrar. The Division Bench thereafter referred to the earlier binding precedent in *Krishnarao Bakaramji Hadge* and reiterated that even where powers of the Registrar are conferred upon subordinate officers under Section 3 of the Act, such officers continue to function under the superintendence of the Registrar and remain subordinate to him. The Division Bench further observed that merely because an Assistant Registrar, Deputy Registrar or similar subordinate officer exercises delegated powers of the Registrar, it cannot be contended that the order passed by such officer must be treated as the order of the Registrar himself. In my considered opinion, the aforesaid observations of the Division Bench directly go against the contention sought to be raised by the petitioners in the present matter that once delegated powers are exercised by the Deputy Registrar, the resulting order must be equated with an order of the Registrar himself. The ratio of *Cipla Limited*, read with *Krishnarao Bakaramji Hadge*, clearly affirms that delegation of power does it obliterate the distinction between the

principal authority and the subordinate officer exercising delegated powers. Thus, even on the basis of the binding Division Bench precedent of this Court, the submission advanced by the petitioners on the question of jurisdiction cannot be sustained.

30) Thus, in *Malad Cooperative Housing Society Limited* (supra) this Court considered the ratio of the judgments of the Apex Court in *Chintapalli Agency* (supra), *Roop Chand* (supra) and *Cipla Limited v. Competent Authority and the District Deputy Registrar, Co operative Society and Others*,⁸ and of Division Bench judgment of this Court in *Krishnarao Bakaramji Hadge* (supra) and held that the Divisional Joint Registrar could entertain revision against the order passed by the Deputy Registrar while exercising delegated powers of Registrar. More importantly, this Court distinguished the ratio of the judgment of this Court in *Bajarang Labour Cooperative Society*, and has held in paragraph 55 of the judgment as under:

55. Learned Senior Counsel appearing for the petitioners has placed considerable reliance upon the judgment of a Coordinate Bench of this Court in *Bajarang Labour Cooperative Society* and submitted that the said decision, after considering Sections 158 and 23(1A) of the Maharashtra Co operative Societies Act, took the view that by virtue of the Government Notification dated 11 September 2012, powers of the Registrar stood delegated to the Deputy Registrar and therefore while entertaining such applications the District Deputy Registrar acts as delegate of the Registrar, and no revision could thereafter lie before the Divisional Joint Registrar. It has further been pointed out that the said view has thereafter been followed in *Ravi Vishwanath Ghumre* and also in *Deepali Majoor Sahakari Sanstha Maryadit*. This Court is unable to accept the same as in the first place, the proposition canvassed in *Bajarang Labour* appears to proceed on an application of the doctrine that an act of delegate is to be treated as act of delegator. However, such proposition, with respect, cannot be read divorced from binding precedents of superior Courts. As already discussed hereinabove, the Supreme Court in *Chintapalli Agency* and *Yogendra Prasad* has held that where the statute itself preserves supervision and distinction between the Registrar and subordinate officers, the conferment of delegated powers upon subordinate officers does not elevate such

officer to the status of Registrar. Equally, Division Bench judgments of this Court in *Krishnarao Bakaramji Hadge and Cipla Limited* have reiterated that subordinate officers exercising delegated powers remain subordinate. These authorities explain the statutory scheme and make it clear that delegation under Sections 3 or 158 does not obliterate statutory position of Registrar. Further, Section 154 itself provides that revision shall lie depending upon the rank of the officer who passed the order, and not merely upon the source from which power is derived. In that view of the matter, the reasoning in *Bajarang Labour* does not align with Supreme Court and Division Bench precedents noticed above. Mere subsequent following of *Bajarang Labour* by coordinate Benches in *Ravi Vishwanath Ghumre and Deepali Majoor Sahakari Sanstha* would not change the position where the issue stands covered by judgments of Supreme Court. Accordingly, with utmost respect, the reliance placed by the petitioners upon the aforesaid line of judgments does not persuade this Court to accept the contention that the Divisional Joint Registrar lacked jurisdiction to entertain the revision merely because the original order was passed by the Deputy Registrar exercising delegated powers.

31) Thus, the ratio of the judgments in *Chintapalli Agency, Krishnarao Bakaramji Hadge* and *Malad Cooperative Housing Society Limited* (supra), leaves no manner of doubt that even if a District Deputy Registrar exercises powers of Registrar under the MCS Act, he still remains subordinate to the Registrar and that therefore the order passed by him does not become order of the Registrar. Therefore, revision against order made by a District Deputy Registrar would lie before the Divisional Joint Registrar.

32) The judgment of Single Judge of this Court in *Bajarang Labour Cooperative Society*, (supra) need not be separately discussed since the same is distinguished by this Court in *Malad Cooperative Housing Society Limited* (supra). The judgment of the Apex Court in *Behari Kunj Sahkari Awas Samiti* (supra) follows the ratio of the judgment in *Roop Chand* (supra), which has already been distinguished by the Apex Court in *Chintapalli Agency* (supra).

33) Conspectus of the above discussion is that the District Deputy Registrar, while passing order of disqualification under Rule 66 of the MCS Election Rules, though has exercised powers of Registrar, he still remains subordinate to the Registrar. The order passed by the District Deputy Registrar under Rule 66 of the MCS Election Rules does not become order passed by the Registrar. In the present case, the District Deputy Registrar has not sought approval of the Registrar while passing order of disqualification. Therefore, revision application under Section 154 of the MCS Act against order passed by the District Deputy Registrar or a Deputy Registrar would lie before the Divisional Joint Registrar.

34) In my view, therefore, the observations made by this Court in paragraphs 29 and 30 of the judgment under review about availability of remedy of revision before the State Government need to be reviewed and recalled and it needs to be clarified that such revision would lie before the Divisional Joint Registrar.

35) Once the observations of this Court in paragraphs 29 and 30 of the judgment under review are clarified by holding that the Divisional Joint Registrar can exercise revisional powers against order passed by the District Deputy Registrar/Deputy Registrar under Rule 66 of the MCS Election Rules, the order dated 22 January 2025 will have to be necessarily upheld by dismissing Writ Petition No.2009 of 2025.

36) I accordingly, proceed to pass the following order:

- (i) Delay in filing the Review Petition is condoned.

- (ii) Observations made by this Court in paragraphs 29 and 30 of the judgment and order dated 27 September 2023 passed in Writ Petition No.14371 of 2022, to the extent of availability of remedy of revision before the State Government, are recalled.
- (iii) It is clarified that Revision against an order passed by the Deputy Registrar/District Deputy Registrar, while exercising powers of Registrar conferred under Section 3 of the MCS Act without reference /approval of Registrar shall lie before the Divisional Joint Registrar.
- (iv) Accordingly, the Revision against the Order dated 16 July 2024 shall lie before the Divisional Joint Registrar.
- (v) To above limited extent, Review Petition (Stamp) No.29430 of 2025 is allowed.
- (vi) Writ Petition No.2009 of 2025 is dismissed by upholding the order dated 22 January 2025 passed by the Divisional Joint Registrar.
- (vii) The Divisional Joint Registrar is requested to expedite the decision of revision and to make an endeavour to decide the same as expeditiously as possible, preferably within a period of four months.

36) With the above directions, both the proceedings and the Interim Application are **disposed of**. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]

37) After the judgment is pronounced, learned counsel appearing for the Writ Petitioner prays for extension of ad-interim relief granted during the pendency of the Petition. The request is opposed by the learned counsel appearing for the Review Petitioner. In view of the observations made in the judgment, I am not inclined to continue the interim order. The request is accordingly rejected.

[SANDEEP V. MARNE, J.]