

Karvenagar Sahakari Griha Rachana Sanstha Maryadit, Pune and Another Vs State of Maharashtra and Others

Court: Bombay High Court

Date of Decision: Feb. 27, 1989

Acts Referred: Constitution of India, 1950 " Article 19(1)

Citation: AIR 1989 Bom 392 : (1989) 3 BomCR 106 : (1989) 91 BOMLR 518 : (1989) MhLj 320

Hon'ble Judges: Tipnis, J; Pendse, J

Bench: Division Bench

Advocate: B.R. Naik, Y.R. Naik and Prashant Naik, for the Appellant; A.S. Bobde, General, V.A. Gangal, A.G.P. and Y.S. Jahagirdar, for the Respondent

Judgement

Pendse, J.

Petitioner 1 - Karvenagar Sahakari Girha Rachana Sanstha Maryadit is a co-operative society registered under the

Maharashtra Co-operative society registered under the Maharashtra Co-operative Societies Act , 1960 (hereinafter referred to as "the Act ")

and has been classified as a tenant-ownership type of housing society within R. 10 of the Maharashtra Co-operative Societies Rules , 1961

(hereinafter referred to as "the Rules"). The Society owns Land Acquisition Act which is divided into 27 plots which are leased out to members

for the purpose of raising construction for personal use. The bye-laws of the Society, which are duly approved by the Registrar, prescribe that a

member would be enrolled provided such member desires to construct a house on the allotted plot for his own use. The Society is entitled to

decline enrolment of any member, in case the intention to construct a house is not bona fide. The bye-laws further prescribe that a person would

not ;be enrolled as member if he is already holding any other plot or any other building in any other society. The bye-laws prohibit letting out of the

house constructed by the member on the allotted plot without prior permission of the Managing Committee. The plots to be allotted to the

members of the Society admeasure approximately 5500 sq. ft. to 6000 sq. ft.

2. Plot No. 9 admeasuring 5700 sq. ft. was allotted by the Society to father of respondent 5. On March 8, 1985 the allottee died and thereafter on

April 15, 1985 the allotment was transferred in favour of respondent 5. The allotment is followed by the lease deed for a duration of 999 years,

and the society has a standard agreement of lease prescribes that the allottee as the lessee shall use the demised plot and premises for the purpose

of private residence only, and without prior permission in writing of the Society, not permit any trade or business in any building or upon any part of

the demised plot. The agreement also prescribes that the allottee shall not do or suffer anything to be done on the demised plot which may cause

nuisance, damage, annoyance or inconvenience to the occupiers of adjacent house or the neighbourhood. The allottee is prohibited from assigning,

underletting or parting with possession of the demised plot and premises at any time during the subsistence of the lease agreement.

3. On Dec. 11, 1985 respondent 5 applied to the Society seeking permission to raise construction on the allotted plot and sale the flats therein on

ownership basis. Respondent 5 was desirous of erecting a multistoreyed building having number of flats and proposed to dispose of the flats on

ownership basis. The General Body Meeting of the Society was convened earlier on Nov. 29, 1985 to consider another application from one of

the members and by majority of 16 to 3 decision was taken that permission should not be granted for constructing multi-storeyed building and

permitting the allottee to dispose of the flats on the ownership basis. The General Body was of the opinion that the Society is constituted to enable

the members to have small houses for their own use and with that object Land Acquisition Act is secured in a peaceful area at Hingne. The General

Body felt that construction of multi-storeyed buildings would destroy the object of formation of society of members who are desirous of having a

residence in a peaceful locality and neighbours of their own choice. Accordingly, on December 18, 1985 the society informed respondent 5 that

permission to raise multi-storeyed construction and disposal of flats therein on ownership basis cannot be granted.

4. The Government of Maharashtra by notification dt. Jan.19, 1985 addressed to the Registrar of Co-operative Societies gave direction in respect

of tenant-ownership housing societies. The notification recites that tenant-ownership housing societies allot plots to its members and members

construct their houses on such plots. In some cases the members are desirous to construct multi-storeyed buildings by consuming the entire

available f.s.i. but the existing bye-laws of the housing society do not permit such construction. The Government notification further recites that

there is dearth of available accommodation in cities like Poona and Bombay and taking that factor into consideration the Government has decided

that the bye-laws should be suitably amended. The notification then directs the Registrar of Co-operative Societies to direct the housing societies

to make the requisite amendments in their bye-laws and grant permission to the members to raise multi-storeyed constructions.

5. The direction further provides that a new co-operative society of flat holders in such multi-storeyed buildings should be formed and registered

and this new society should also be a member of the existing housing society and the new society should nominate one member on the existing

housing society. The direction further prescribes that it is open for the existing housing society, but the charges should not exceed Rs. Ten

Thousand.

6. In accordance with the directions issued by the State Government, the Registrar issued circular dt. Dec. 5, 1985 directing all the housing society

was called upon by letter dt. Feb. 3, 1986 to amend the bye-laws. The petitioner Society objected and thereupon the Registrar by letter dt. July

23, 1986 threatened to take action u/s 14 of the Act, which enables the Registrar to compel the society to amend the bye-laws. Respondent 5, in

the meanwhile, commenced construction work for raising a multi-storeyed building on the plot allotted to him and thereupon the society filed

dispute u/s. 91 of the Act before the Co-operative Court, Poona. The society then realised that it would not be possible to resist the threat given

by the Registrar to amend the bye-laws and thereupon instituted the present petition on Sept. 3, 1987 under Art. 226 of the Constitution of India,

and the reliefs sought are-

(a) declaration that the notification issued by the State Government on Jan. 19, 1985 and the circular issued by the Registrar of Co-operative

Societies in pursuance thereof Co-operative Societies in pursuance thereof on Dec. 5, 1985 are null and void; and

(b) prohibiting the Registrar from registering the proposed society of respondents 5 and 6 in respect of the proposed building on plot No. 9

allotted to respondent

7. Dr. Naik, learned counsel appearing on behalf of the petitioners, submitted that the State Government had no authority or jurisdiction to give

direction to the Registrar to amend the bye-laws of the existing housing society. The learned counsel urged that even otherwise the direction given

by the State Government would totally destroy the concept of formation of housing co-operative society. Dr. Naik submitted that forcing the

existing co-operative society to admit as its member a sub-society of occupiers of multi-storeyed building on one of the plots is violative of

fundamental right guaranteed under Art. 19(1)(c) of the Constitution. The learned counsel further urged that the Registrar cannot compel the

registered society to amend bye-laws in exercise of powers u/s. 14 of the Act unless it was found to be necessary or in the interest of the society.

The powers exercised by the Registrar are quasi judicial in nature and the Registrar was clearly in error in compelling the society merely because of

the flat issued by the State Government. Dr. Naik submitted that permitting a member to raise multi-storeyed structure is to enable the builders and

developers to take over the properties and their entry would be detrimental to the interest of remaining members of the society and would certainly

defeat the object of co-operative movement.

8. The State Government has not filed any return in answer to the petition, nor the Registrar of co-operative societies. The only return filed is of

respondent 5 sworn on Nov. 13, 1987 and it is claimed that the permission sought by respondent 5 should have been granted by the society as

permission to construct a hospital and a building consisting of six flats have been given to the two allottees. It was urged on behalf of State

Government and Registrar of Co-operative Societies that the State Government has power to issue directions under Ss. 4 and 79A of the Act and

the notification issued is in exercise of that power. It is also claimed that the existing bye-laws of the petitioner society do not prohibit erection of

multi-storeyed building and therefore the direction issued by the Government should not be faulted. The State Government also claims that direction

was issued in the public interest by taking into consideration the need for residential accommodation of people in general.

9. In view of the rival submissions two or three questions squarely arise for consideration. The first question is whether the State Government has

power to issue fiat to the Registrar to compel housing society to amend bye-laws and which are detrimental to the interest of the housing society.

The second question which requires determination is that even assuming that the State Government has such power, whether the exercise of power

violates the fundamental rights guaranteed to the society and its members. Lastly, it is necessary to determine as to whether the Registrar in

exercise of powers u/s. 14 of the Act can compel the housing society to amend the bye-laws and permit construction of multi-storeyed buildings by

a member.

10. Before examining the provisions of the Act and the Rules, it would be appropriate to ascertain concept of co-operative movement. A co-

operative society is a voluntary association of persons; it is an economic institution informed by social purpose and not motivated by

entrepreneurial profits; it is a democratic organisation owned and controlled by those utilising its services. A combination all these features mark out

co-operatives as distinct organisations different from other types in the private or public sector. What objectives and scope of co-operative

legislation should be, have been succinctly described by Mr. Watkin in his preface to International Handbook of Co-operative Legislation:

""True co-operation draws its inspiration from realms where the State's writ does not run. Co-operative movements are not created by legislation.

Nevertheless, without an appropriate legislative framework a co-operative movement in the form of a growing economic organism is not possible

or even conceivable. The right of individuals to associate in co-operative societies and the right of the societies to unite in federations must be

recognised..... The legal harness must allow for the free play of fundamental co-operative principles and the normal development of cooperative

organisations according to the needs of their members and their own laws of growth.""

It would be interesting to make reference to the speech of Sir Denzil Ibbeston introducing Co-operative Credit Societies Bill, 1904, which sets out

broad principles and precautions in respect of legislation regarding co-operative societies:

"" The people must in the main be left to work out their own salvation on their own lines, the function of Government being confined to hearty

sympathy, assistance and advice.""

11. The legislation of co-operative which was enacted by introduction of Co-operative Credit Societies Bill, 1904, prescribes the basic rule that

the bye-laws of a co-operative expresses its real intention of the participating members, and should be framed within the parameter of the Act and

the Rules. The co-operative laws do not attempt a legal definition characteristic of co-operatives are incorporated in the law. The Commission on

Co-operative Principles appointed by the International Co-operative Alliance and which was presided over by the renowned Indian Co-operator,

late Prof. D. G. Karve, has re-enunciated these principles as follows:

""(I) Membership of a co-operative society should be voluntary and available without artificial restriction or any social, political, racial or religious

discrimination, to all person who can make use of its services and are willing to accept the responsibilities of membership;

(ii) Co-operative societies are democratic organisations, their affairs should be administered by persons elected or appointed in the manner agreed

by the members;

(iii) the members should provide for development of the business of the co-operative, provide for common services, and distribute amongst the

members the profits made.""

Bearing these principles of co-operatives in mind, it would now be appropriate to turn to the provisions of the Act .

12. The preamble to the Act recites that the Act was enacted with a view to providing for the orderly development of the co-operative movement

in the State of Maharashtra in accordance with the relevant directive principles of State policy enunciated in the Constitution of India. Section

2(16) defines expression ""housing society"" and means a society, the object of which is to provide its members with open plots for housing,

dwelling houses or flats; or if open plots, the dwelling houses or flats are already acquired, to provide its members common amenities and services.

Section 2(19)(a) defines ""member"" and means a person joining in an application for the registration of a co-operative society which is

subsequently registered, or a person duly admitted to membership of the society after registration. Section 2(27) defines ""society"" as a co-

operative society registered or deemed to be registered under the Act . Section 2(5) provides that expression ""by-laws"" means by-laws

registered under the Act and for the time being in force, and includes registered amendments of such by-laws. Section 4 provides that the society

which has as its objects the promotion of the economic interests or general welfare of its members or of the public in accordance with co-operative

principles, may be registered under the Act . The Proviso prescribes that no society shall be registered, the registration of which may be contrary to

the policy directives which the State Government may from time to time issue. Section 12 of the Act demands that the Registrar shall classify all

societies into one or other of the classes of societies and also into such sub-classes as may be prescribed by rules. The Rules are framed by the

Maharashtra Government in exercise of powers conferred by sub-secs. (1) and (2) of S. 165 of the Act . Rule 10 deals with classification and

sub-classification of societies and provides that after registration of the society the Registrar shall classify the society into one or other of classes or

sub-classes prescribed under the Rule. Item 5 deals with the class of housing society and sub-class covers three categories (a) tenant-ownership

housing society, (b) tenant co-partnership housing society and (c) other housing societies. The Rule also sets out the examples of societies which

would fall under the three categories. The tenant-ownership housing societies are housing societies where Land Acquisition Act is held either on

lease-hold or free-hold basis by societies and houses are owned or are to be owned by members. The tenant-co-partnership housing societies are

housing societies which hold both Land Acquisition Act and buildings either on lease-hold or free-hold basis and allot them to their members. The

other housing societies are house mortgage societies and house construction societies.

13. Section 9 (1) of the Act provides that if the Registrar is satisfied that a proposed society has complied with the provisions of the Act and the

Rules , then such society should be registered. On registers by -laws and normally the model by-laws prepared by the Registrar are accepted by

the societies. Section 13 prescribes that no amendment of the by-laws shall be valid until registered under the Act ., and amendments of the by-

laws are permissible provided in the general meeting of the society such amendment is approved by 2/3rd of the members. Sub-sec (1B) of S.13

prevents of the Registrar from registering amendment of the policy directives issued by the State Government u/s.4. Section 14 confers power on

the registrar to direct amendment of by laws. The registrar can compel a society to amend the by-laws if the Registrar is satisfied that such

amendment is necessary or desirable in the interest of such society. Sub-sec (2) of S. 14 provides that if the society fails to make the amendment

as directed by the Registrar, then the order of the Registrar in that respect shall have the result of the amendment being duly carried out in the bye-

laws. Section 152 of the Act provides for a right of appeal against any order passed by the Registrar u/ss. 13 or 14 of the Act, and S. 154

confers power on the State Government to revise the order passed by the appellate authority. Section 79A confers power on the State

Government to give directions in the public interest or for the purpose of securing proper implementation of co-operative production or to secure

proper management of the business of the society or for preventing affairs of the society being conducted in the manner detrimental to the interest

of the members. The directions issued by the State Government are binding on the societies. These are the relevant provisions of the Act and the

Rules for ascertaining whether the Government has a power to issue directions directing the Registrar to compel all housing societies to amend their by-

laws so as to permit allottee of a plot to raise multi-storeyed structures.

14. Dr. Naik submits that the housing societies are formed by the members with a view to obstruct houses for their own enjoyment and the

members joined such society with an assurance that the plots of lands would not be exploited for commercial

purposes. The members also were assured that they would be their neighbors in the housing society. The registration of a housing society as

tenant-ownership housing society makes it clear that the society holds the Land Acquisition Act and houses are owned by the members. The

registration and classification of housing society as tenant-ownership housing society make it clear that the houses which would be constructed by

the members would be owned by them and the by-laws of the society provide that such houses would not be sold. Let out or possession parted with

without prior approval of the society. The entire concept of forming a housing co-operative society is to provide accommodation to the members

and the society is not formed with an intention of enabling the members to exploit the Land by commercial methods and make profits. The

petitioner society and the plots are allotted to the members who joined the society with the clear provision that construction would be made by the

members for their own use. The by-laws of the society clearly provide that the person would not be enrolled as a member unless the society is

satisfied that such applicant has bona fide desire to construct a house for his own occupation. It is necessary to bear in mind that the members is

allotted a plot for construction of house, but the right in the Land Acquisition Act underneath continued with the society all along. The rights of

member of the society are regulated by the by-law and Full Bench decision of this court reported in *Manohar Ramchandra Sarfare Vs. The*

Konkan Co-operative Housing Society Ltd. and Others,

There mutual rights and obligation of a co-operative housing society and its members are quite different from those of a landlord and a tenant.

The relationship is of special type., which is governed by special laws made for this purpose viz, the co-operative Societies Act and the Rules. By -

laws and regulations made thereunder. Even though therefore, a member to whom a tenement is given for occupation is described in the by-laws

and the regulations as a tenant, he is not a tenant in the sense in which this term is used in the Transfer of property Act or in the Rent Act, nor is

the Society his landlord.

Respondent 5 has joined the petitioner society and has accepted the by-laws framed by the society and registered by the Registrar. They by[laws

make it crystal clear that the construction is to be raised by the allottee for his own use and the member is not permitted to part with possession or

to sub-let the premises without the prior approved of the society. In spite of his clear cut agreement, respondent 5 is insisting that multi-storied

building can be raised on his plot and respondent No. 5 would dispose of the flats on ownership basis. The occupiers of the flat then would form a

co-operative society, with the result that on the Land Acquisition Act of housing society another society would construct building and let it out to

the members. It is obvious that such action on the part of the members of the housing society would invite his expulsion from the society.

Respondent 5 insisted upon constructing multi-storeyed building because of the flat issued by the State government on Jan. 19, 1985. Direction of

the government proceeds on the basis that the existing by laws of the society do not permit construction of multi-storeyed building by a member.

The submission on behalf of State Government that existing by-laws permit such construction is therefore required only to be stated to be

rejected. Directive claims that it is necessary to grant such permission to overcome the shortage of accommodation in city like Pune and Bombay

and therefore the Registrar should direct amendment of by-laws. It further directs that the occupiers of the flats in such multi-storeyed building

should form a society and a representative of that society should be a member in the existing housing society,. Dr. Naik submitted that the State

Government has no power to issue such direction. In answer in the submission the Government Pleader relied upon S. 4 and 79 A of the Act . We

are unable to accept the claim of the State Government that S.4 or S. 79A confers such power on the State Government. The proviso to S. 4

prescribes that the Registrar shall not register the society if the registration is contrary to policy directives issued by the State government. Section 4

confers upon State Government Section 4 confers upon State Government the right to issue policy directive for the purpose of achieving the object

obviously is orderly development of the co-operative movement. The directives are issued or the guidelines are given so as to ensure that only

those societies whose object ensure that only those societies whose object is to advance cause of the co-operative movement are registered. This

power certainly cannot be used to destroy the co-operative movement. Section for advancement of the co-operative and this power cannot be

made use of for the purpose of destroying the co-operative movement or to benefit the builders or the developers. The bare perusal of s. 4 and S.

79A leaves no manner of doubt that the power is to be exercised for the purpose of securing proper implementation of co-operative movement. In

the present case the directive is issued by the State Government on a spurious ground that there is dearth of accommodation that does not enable

the State to compel the housing society to Act contrary to by-laws or to foist new members of the society. The members have joined the society

in accordance with the by-law a and the members join a housing society by ascertaining what would be the environments in which they will reside.

It is not permissible for the State Government to compel the society to amend its by-laws as to defeat the object of formation of the society. In the

present case the society was constituted with the object of providing peaceful accommodation to the members.

The compulsion of the State Government that members should be permitted irrespective of the desire of the majority , to erect high rising buildings

would totally destroy the basic concept of formation of society. The answer to the dearth of accommodation is not to force the existing registered

housing societies to amend by-laws and permit few members to commercially exploit the plots in violation of agreements under which they were

secured. The directive is nothing but a charter to permit breach of such agreements and compulsion to amend by-laws in only with a view to

validate such infraction. In our judgment neither S.4 nor S. 79 A of the Act confers any such power upon the State government. The notification

upon the State government . the notifications issued by the State government therefore is without any authority or jurisdiction and is therefore

required to be struck down.

15. Even assuming that the State Government has power to give directions as contained in the notification. Still the submission of Dr. Naik that the

directions are violative of fundamental rights guaranteed under Art.. 19(1)(c) of the Constitution and therefore void requires acceptance. Article

19(1)(c) confers right on all citizens to form association or union and the petitioner society. Is constituted true that the right to form association can

be regulated by the provisions of the stature. The petitioner society is registered under the Act and the by-laws of the society are also registered by

the Registrar as the same are in accordance with the requirements of the Act and the rules. By the impugned notification the government provides

that a members can raise high rising building on the allotted plot and the occupiers of such plot would form a society, which can be described

loosely as a sub-society and the representative of such sub-society would be member of the petitioner housing society. In other words, the

Government is compelling the housing society to accept a sub-society on its hand and then accept the sub-society as a member of the petitioner

society, Dr. Naik complains, and in our judgment with considerable merit that it not permissible for the State Government to first any member on

the housing society because the right to become a member is to determined by the managing committee in accordance with the by-laws and

Government cannot direct that any person would automatically become a members and that too against the wishes of the members of existing

society. The submission is correct. Right to form association conferred under Art. 19(1)(c) is not only limited to the initial information of the

association but also operated in respect of continuance of such association. The direction issued by the State government infringes upon right of

citizen to form and continue the association and to determine who shall be member of such association. The State Government is forcing a member

on such association and such compulsion clearly amounts to infraction of the fundamental rights. Relilience by Dr. Naik on the decision of the

Supreme Court reported, in Smt. Damyanti Naranga Vs. The Union of India (UOI) and Others, is very appropriate. The Supreme court held:

the right to form an association necessarily implies that the persons forming the association have also the right to continue to be associated with

only those whom they voluntarily admit in the association. Any law, by which members are introduced in the voluntary Association without any

option being given to the members to keep them out, or any law which takes away the membership of those who have voluntarily joined it, will be

a law violating the right to form an association. The Hindi Sahitya Sammelan Act does not merely regulate the administration of the affairs of the

original society: what it does is to alter the composition of the society itself. The result of this change in composition is that the members, who

voluntarily formed the Association, are now compelled to Act in that Association with other members who have been imposed as members by the

Act in whose admission to membership they had no say. Such alteration in the composition of the Association itself clearly interferes with the right

to continue to function as members of the Association which was voluntarily formed by the original founders. The Act , therefore violates the right

of the original members of the Society to form an association guaranteed under Art. 19(1)(c)".

In our judgment even assuming that the Government has power to issue directive., the directive issued under the impugned notification is clearly

violative Art. 19(1)(c) of the Constitution.

16. The next contention of Dr. Naik that the Registrar is exercising quasi-judicial powers while sanctioning the amendment of by-laws u/s. 13 or

compelling a society to amend the by-laws u/s 14 of the Act is correct. The Registrar is required under the provisions of the Act to exercise

powers and while exercising the powers the Registrar is provisions of the Act to exercise powers and while exercising the powers the Registrar os

performing quasi-judicial functions. The power exercised by the Registrar is appealable u/s 152 of the Act and further revisable by the State

Government. It is now well settled that exercise of such powers are quasi-judicial and the Registrar in exercise thereof should not be guided by

extraneous consideration or by the directions issued by higher authorities including the State Government. A reference can be usefully made to the

decision of the Supreme Court reported in Chandrika Jha Vs. State of Bihar and Others, . Dr. Naik submitted that the petitioner society is

compelled to amend the by-laws by the letter issued by the Registrar and the Registrar has exercised his power merely because the Government

has issued directions and not because the requirements of Section 14 are complied with. Section 14 provides that the registrar that an amendment

of the by-law is necessary or disable in the interest of such society. The crucial words are ""necessary or desirable in the interest of such society"".

The registrar has to be satisfied that the amendment of the by-laws are necessary or desirable in the interest of the society to which order is

directed. The registrar in the present case has not even examined whether the requirements of S. 14 are satisfied, but has directed the society to

amend the by-laws merely because the Government so desires. It hardly requires to be stated that permission to an allotted of a flat in the housing

society to erect multy-storeyed structure would not be in the interest of the housing society. The Housing society, like the petitioners society is

formed with a view to provide for peaceful accommodation to the members and therefore the by-laws insists the allot of the plot of Land

Acquisition Act can erect structure for his own occupation and not for lending out or for commercial exploitation of Land Acquisition Act. An

amendment to the by-laws permitting such actions can buy no stretch of imagination be in the interest of society. The members of the society

contributes the amount for maintenance for common amenities and service and the liability to contribute is on the basis that plots of Land

Acquisition Act would be enjoyed by the members by constructions of houses for their own benefits. The internal roads are constructed, the lights

are provided, water supply is given and all other common amenities and services are provided by the society. The permission to a member to

construct high rising building and letting out the flats on ownership basis would result in heavy pressure on the common amenities and services

provided by the society and for which the members surely have not contemplated while joining the co-operative society. The permission to

construct high rising building on a developed plot in housing society would certainly give huge benefit to a member but at the cost of other members

and in clear violation of by-laws. The amendment is also not necessary as the members have joined the society voluntarily accepting the rules and

by-laws and in case a member is not desirous of constructing house for his own use, then there si no compulsion to continue the membership. It is

therefore obvious that the Registrar is forcing the petitioner's society to amend the by-laws when it is neither necessary nor desirable in the interest

of the petitioners society. It is also difficult to appreciate how a sub-society of the flat owners in the high rising buildings can be formed and

registered and how the registrar will classify it. As mentioned herein above the housing societies are divided in the three sub-classes and the

proposed society of flat owners on a plot of land allotted to a member of a tenant-ownership housing society would not fall in any of the three

categories of sub classes referred to under item 5 of R. 10 of the Rules. Indeed the society which the Government contemplates under notification

would neither be a tenant ownership housing society nor a co- partnership housing society nor other housing society and therefore it is difficult to

appreciate how the registrar would register such societies and under which clause are circular. In our judgment the registrar has issued a fiat

compelling the petitioner's society to amend the by-laws without satisfying whether the necessary ingredients for exercise for powers u/s 14 of the

Act are in existence. A reference in this connection to the decision of division bench Dt July 2nd, 1981 in writ petition. No. 3555 of 1980 and to

which one of us (Pendse, J.) is a party is appropriate. The division bench held that the powers u/s 14 of the Act can be used by the registrar only

if it is established that the amendment of the by-laws is desirable and is in the interest of such society. The exercise of powers in the present case is

clearly faulty, and the petitioners are entitled to the relief sought.

17. Accordingly petition, succeeds and the rules is made absolute in terms of prayers(a)(I)and (iii) . the interim order passed interims of prayer(b)

(iv) shall continue till the disposal of the application for interim relief filed by the petitioners in the dispute filed u/s 91 and pending before the Co-

operative Court.

18. In the circumstances of the case, there will be no order as to costs.

19. Order accordingly.