IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.7071 OF 2026

PETITIONERS : 1) Omprakash Alias Bachhubhau Babaraoji Kadu, Age: 56 Years, Occup.:- Agri, R/o. Kural (Purna), Tq. Chandurbazar, Dist.Amravati.

2) Abhijit Pravin Dhepe,
Age: 49 Years, Occup.:- Agri, R/o. Vimal Amravati, Tq. and Dist. Amravati.

3) Sudhakar Narayanrao Bharsakale, Age: 58 Years, Occup.:- Agri, R/o. At Po. Shivaji Nagar, Banosa, Tq. Daryapur, Dist. Amravati.

4) Nareshchandra Panjabraoji Thakare, Age: 62 Years, Occup.:- Agri, R/o. Jawahar Housing Society, Warud, Tq. Warud, Dist. Amravati.

5) Ajay Shankarrao Mehkare,
Age: 55 Years, Occup.:- Agri, R/o. Pannalal Nagar, Amravati, Tq. and Dist. Amravati.

6) Jayprakash Dayaramji Patel,
Age: 56 Years, Occup.:- Agri, R/o. At Po Zilpi, Tq. Dharni, Dist. Amravati.

7) Dayaramji Sanu Kale,

Age: 58 Years, Occup.:- Agri, R/o. At. Po. Gourkheda Bazar, Tq, Achalpur, Dist. Amravati.

8) Anand Nandkumar Kale,
Age: 39 Years, Occup.:- Agri, R/o. Bramhansabha Colony, Paratwada, Tq. Achalpur, Dist. Amravati.

9) Sunil Gopalrao Varhade,
Age: 56 Years, Occup.:- Agri, R/o. Rathi Nagar, Near Computer Circle, Amravati, Tq. and Dist. Amravati.

10) Smt. Surekhatai Surendrapant Thakare,
Age: 55 Years, Occup.:-Agri, R/o. Appu Colony, Shegaon Naka, Rahatgaon Road, Amravati, Tq. and Dist. Amravati.

11) Chitratai Prashantrao Dahane,
Age: 50 Years, Occup.:- Agri, R/o. Shantisadan Colony, Near Ashiyad Colony, Shegaon, Amravati, Tq. and Dist. Amravati.

..VERSUS..

RESPONDENT(S) : 1) State of Maharashtra,
Through its Secretary, Department of Cooperation, Marketing and Textile, Mantralaya, Mumbai-400 032.

2) State Co-operative Election Authority, through its Commissioner, Old Central Building, Pune.

3) District Co-operative Election Officer and Divisional Joint Registrar, Co-operative Societies, Amravati Division, Amravati, Office at Kanta Nagar, Amravati. Tah. And District-Amravati.

4) Shri Gautam Wardhan,
Divisional Joint Registrar, Co-operative Societies, Amravati Division, Amravati, Office at Kanta Nagar, Amravati. Tah. And District-Amravati.

5) Amravati District Central Co-operative Bank Amravati Limited, through its CEO, Office at Irwin Square, Camp Road, Amravati, Tq. & Dist. Amravati.

Shri M.G. Bhangde, Senior Advocate a/b Shri P.A. Kadu, Advocate for the petitioner/s
Shri Milind Sathe, Advocate General, a/b Ms M.H. Deshmukh, AGP for the respondent/State
Shri S.S. Ghate, Advocate for the respondent No.2
Shri J.B. Kasat, Advocate for the respondent No.5
Shri F.T. Mirza, Senior Advocate a/b Shri Paresh Thakur with Ms Madhura Bhande, Advocates for the Intervenor/applicants.

CORAM : ANIL S. KILOR AND RAJNISH R. VYAS, JJ.

DATE : 05/10/2026

ORAL JUDGMENT : (Per : Anil S. Kilor, J.)

1. Heard.

2. Rule. Rule is made returnable forthwith. Heard finally

by consent of learned counsel for the respective parties.

3. The petitioners are the members of the managing committee of the respondent No.5, Amravati District Central Cooperative Societies, Amravati. By way of the present petition, a challenge has been raised to the constitutional validity of the amendment brought to sub-section (3) of Section 73AAA of the Maharashtra Co-operative Societies Act, 1960 (for short "the Act of 1960"), deleting the first Proviso and inserting the second Proviso whereby, the protection granted to all the societies to continue as members of the society after expiry of the term, if the election of the society could not be held for the reason not attributable to the committee of such society, has been withdrawn for the type A societies, like the respondent No.5 society.

4. Following are the prayers made by the petitioners:

> *"It is, therefore, most humbly and respectfully prayed that this Hon'ble Court may kindly be pleased to issue writ of Mandamus and/or any other appropriate writ:-*
>
> *(i) hold and declare that the Maharashtra Co-operative Societies (Amendment) Act, 2026 to the extent it exclude Type A societies from protection contemplated in proviso to section 73AAA (3) (Annexure 9) published in gazette notification dtd.15.04.2026 is discriminatory, arbitrary, illegal, unconstitutional, ultra vires and strike down the same in the*

interest of justice;

(ii) direct the respondent no.3 District Co-operative Election Officer and Divisional Joint Registrar, Co-operative Societies, Amravati Division, Amravati to conduct the election of the respondent no.5 bank in a time bound manner and in any case within the period of 3 months in the interest of justice;

(iii) direct the respondent no.1 and 2 to appoint another Election Officer in place of respondent no.4 to conduct free, fair and impartial election of the respondent no.5 bank in the interest of justice;

(iv) by interim order permit the existing committee of the respondent no.5 bank to continue to function till new committee enters into office during the pendency of present petition;

(v) grant ex-parte ad-interim relief in terms of prayer clause (iv) above;

(vi) grant any other relief which this Hon'ble Court deems fit and proper in the facts and circumstances of the present case and in the interest of justice."

5. At the outset, Shri Milind Sathe, learned Advocate General, appearing for the respondent/State, opposes the petition on the ground that this Court in an identical petition involving the similar challenge has upheld the validity of the proviso to Section 73AAA of the Act of 1960, vide judgment dated 22.06.2026 in *Writ Petition No.3587 of 2026 (Shri Manish s/o Uttamrao Patil and others Vs. The State Government and others).* It is argued that the said judgment is squarely applicable to this Case and hence, the

petition may be dismissed.

6. Shri Bhangde, learned Senior Advocate, on the other hand, submits that in *Writ Petition No.3587 of 2026 (supra),* many important points were not argued. It is argued that, had the points, which the petitioners seek to canvass in the present petition been raised in the said writ petition, the result would have been different in the said writ petition. It is therefore, submitted that the judgment in *Writ Petition No. 3587 of 2026 (supra),* would not come in the way of the present petitioners.

7. Accordingly, we proceed to hear the matter to adjudicate the challenge raised to the constitutional validity of second proviso to sub-section (3) of Section 73AAA of the Act of 1960, afresh.

8. Shri Bhangde, learned Senior Advocate for the petitioners argues that the petitioners are the elected members of the respondent No.5-Bank. It is submitted that their term of five years would come to an end on 04.10.2026. It is submitted that since the Type "A" societies are excluded from the applicability of second proviso to Section 73AAA of the Act of 1960, the

petitioners and other members of the committee of the respondent No.5 society would not continue as members beyond 04.10.2026. It is argued that except the Type "A" societies, such protection is continued to other societies. It is contended that a question, therefore, is whether such exclusion stands to the test of Article 14 of the Constitution of India.

9. Shri Bhangde, learned Senior Advocate, argues that under Section 12 of the Act of 1960, classification of societies is given. Whereas, under the Rule 10 of the Maharashtra Co-operative Societies Rules, 1961 (for short “the Rules of 1961”), classification and sub-classification of societies are given. It is submitted that such societies, which are classified under the Act of 1960 are defined under Section 2 of the Act of 1960, namely Crop Protection Society, Farming Society, Federal Society, General Society, Housing Society, Life Irrigation Society, Processing Society, Producers’ Society, Resource Society, Society with Limited liability and Society with unlimited Liability. It is argued that there is no classification made by the statute, like Type "A" Society. Such Classification, i.e., Type "A" to Type "E" Societies is made under the Maharashtra Co-

operative Societies (Election to Committee) Rules, 2014 (for short "the Rules of 2014") which are for the purpose of conduct of election to the Societies under the Act. It is argued that sub-section (3) of section 73AAA of the Act of 1960 is not relating to conduct of election and therefore, the classification made under Rules of 2014 cannot be employed for Section 73AAA of the Act of 1960.

10. It is argued that the Co-operative Society registered under the Act of 1960, is bound to function as democratic institution and conduct its affairs based on the democratic principle. It is argued that the democratic principle is to be reflected under the provision of the Act, the Rules and the bye-laws on both the principle and procedure. It is submitted that the intention and object in granting protection to the committee to continue even after the expiry of the term of five years is to replace the democratically elected body by another democratically elected body. It is therefore, submitted that the exclusion of Type "A" societies from such protection must be based on *intelligible differentia* and there must be a reasonable nexus/relation to the object to be achieved. It is argued that, in the matter at hand, exclusion of Type

"A" societies from protection is against the aforementioned object and it is unconstitutional. Shri Bhangde, learned Senior Advocate, has placed reliance on the judgments of the Hon'ble Supreme Court of India in the cases of *Hiral P. Harsora Vs. Kusum Narottamdas Harsora*, reported in **(2016) 10 SCC 165** and *Naresh Chandra Agrawal v. Institute of Chartered Accountants of India and Ors,* reported in **2024 (13) SCC 241**.

11. It is submitted that the classification must be rational and not artificial or evasive based on such qualities or characteristics, which must have a reasonable relation to the object of the legislature. It is thus, argued that since the impugned amendment does not stand to test of Article 14 of the Constitution of India, for the reason that such classification is not based on any reasonable relation to the object of the legislature, it is violative of Article 14 of the Constitution of India. To substantiate his argument, he has placed reliance on the judgment of the Hon'ble Supreme Court of India in the case of *Vipulbhai M. Chaudhary v. Gujarat Cooperative Milk Marketing Federation Limited & Ors.* reported in **2015 (8) SCC 1** and *Subramaniam Swamy Vs. CBI*, reported in

(2014) 8 SCC 682.

12. It is submitted that continuing the protection under the second proviso to sub-section (3) of Section 73 AAA of the Act of 1960, to other societies and exclusion of Type "A" Societies is arbitrary. It is submitted that no reasons are provided by the State Government for exclusion of Type "A" societies, to justify the reasonable relation to the object of the legislature.

13. Shri Sathe, learned Advocate General for the State of Maharashtra submits that at the outset, it is important to know the purpose behind filing of the present petition. The purpose is to allow the petitioners to continue in the office, even after the expiry of their term, which is not their right, either statutory or constitutional.

14. It is argued that sub-section (3) of Section 73AAA of the Act of 1960 mandates that after the expiry of term of office, the members of the Society or Committee shall vacate the seat. This provision is consistent with the object of the Act and also it is in consonance with the spirit of the Constitution of India, therefore, the impugned amendment to the second proviso to sub-section (3)

of Section 73AAA, which excludes the applicability of the second proviso to 'Type A' Societies, cannot be said to be unconstitutional or in violation of Article 14 of the Constitution of India.

15. He further points out that the first proviso was introduced during the COVID-19 pandemic, permitting the Members of the Society/Committee to continue in the office even after the expiry of their term. It is submitted that considering the situation prevailing during the COVID-19 pandemic, the aforementioned proviso was brought into effect. It is submitted that the Government now wants to revert to the original legislative policy and stick up to the tenure provided under the Act, which therefore, cannot be termed as unconstitutional.

16. It is argued that the classifications made under the Rules of 2014 for holding the elections of the various societies, is not under challenge. Thus, the classifications made by the sub-ordinate legislation cannot be said to be bad for any reason and further, right to vote and right to contest the election is a statutory right and not a fundamental right. It is contended that the same principle can further be extended to the right to continue in office

on expiry of the term. He thus argued that the petitioners have not made out any case for grant of the relief as sought in the present petitions.

17. It is submitted that Type "A" Societies in itself are a distinct and separate category from other types of societies, for the purpose of holding elections. Therefore, the protection to continue in the office after the expiry of the term, can be withdrawn in respect of Type "A" Societies as a separate class.

18. Learned Advocate General further argued that since the amended provision is in accordance with the object and purpose of the Act and in consonance with the spirit of the Constitution of India, even in absence of any reasons provided in the Bill for such amendment, the same cannot be termed as unconstitutional.

19. In reply, Shri Bhangde, the learned Senior Advocate, submits that there are no pleadings made by the State that, the State wants to go back or revert back to the mandate of sub-section (3) of Section 73AAA of the Act of 1960 i.e. to vacate the office after the expiry of his/her term. It is submitted that even the Bill does not state any such reason in its Statement of Objects and Reasons. It is

argued that Statement of Objects and Reasons can be used for judging the reasonableness of classifications made in an enactment to see whether it infringes or is contrary to the Constitution. For this purpose he has placed reliance on the judgment in the case of *Hiral* (supra).

20. Shri Mirza, learned Senior Advocate for the intervenor and Shri Ghate, learned counsel for the respondent No.2, reiterate the submission made by Shri Sathe, learned Advocate General, and pray for dismissal of the present petition.

21. Having heard the rival submissions, let us now examine the challenge raised to the constitutional validity of second proviso to sub-section (3) of Section 73 AAA of the Act of 1960.

22. This proviso before amendment was that, if the election to the committee of the society could not be held for any reason not attributable to the members of the committee of such society, the existing members of the committee shall be deemed to have continued till new committee is duly constituted.

23. By way of amendment by Mah. Act No.XX of 2026 dated 15.04.2026, the words "committee of the society" are substituted by the words, letters, figures and brackets "the committee of the society except the committee of Type "A" societies prescribed under Rule 4 of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014".

24. Thus, after the amendment, the new proviso says that if the election to the committee of the society except the committee of 'Type A" societies prescribed under Rule 4 of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014 could not be held for any reason not attributable to the members of the committee of such society, the existing members of the committee shall be deemed to have continued until a new committee is duly constituted.

25. If we go to the root of introduction of proviso, it will be revealed that respondent No.1 amended the Act of 1960 by Mah. Act No.XXVII of 2020 which is called as Maharashtra Co-operative Societies (Second Amendment) Act, 2020 which came into force on 10.07.2020. By the said

amendment, first time a proviso to sub-section (3) alongwith amendment to other provisions of the Act of 1960 was made. The amendment to Section 73AAA is as follows:

> "*2. In section 73AAA of the Maharashtra Co-operative Societies Act, - 1960 hereinafter referred to as principal Act"), to sub-section (3), the following proviso shall be added, namely:-*
>
> *"Provided that, if the election to the Committee of the the members of the Committee of such Society, the existing members of the Committee shall be deemed to have continued till new committee is duly constituted."*

26. Thereafter, notification dated 20.01.2022 called as Maharashtra Co-operative Societies (Amendment and Validation) Act, 2021 came into force on 02.11.2021 w.e.f. 24.03.2020. Section 73AAA was amended by inserting the proviso prior to the existing proviso which is as follows:

> *"Provided that, if the term of office of the elected members of the committee and its office bearers has expired, and if the election to the committee of the society could not be held due to imposition of lock-down in the State in view of the Covid-19 pandemic, the orders issued by the Government, from time to time, or any reason not attributable to the members of the committee of the society, such members and office bearers of the committee shall be deemed to have continued as members and office bearers of the committee till new committee is duly constituted:"*

27. Thus, it is evident that first proviso was inserted on

12.10.2020 with effect from 10.07.2020 and prior to that there was no such protection available to any of the societies.

28. Thereafter, the amendment came into force from 02.11.2021. It is evident that the said amendment was brought into effect due to imposition of lock down in the State in view of COVID-19 pandemic.

29. If the Scheme of the Act of 1960 and the constitutional provisions are considered, without an element of doubt, it is evident that the members of the committee of the society shall have to vacate their office on the expiry of the term. Hence, their right to hold the office is restricted to the term fixed by the statute.

30. Shri Bhangde, learned Senior Advocate argues that the object and purpose of the Act of 1960 is that a democratically elected body shall manage the affairs of the Society/Committee and democratically elected body can be replaced by another democratically elected body and therefore, such amendment is contrary to the object and purpose of the Act.

31. The Hon'ble Supreme Court of India in the case of

Vipulbhai (supra) has held that the cooperative society registered under the Central or the State Act is bound to function as a democratic institution and conduct its affairs based on democratic principles. Democratic functioning on democratic principles is to be reflected in the respective Acts or Rules or bye-laws both on the principle and procedure.

32. It is therefore, appropriate, at this stage, to refer to certain relevant provisions for this purpose.

33. Section 73AAA of the Act of 1960 relates to the constitution of the committee. Sub-section (3) of Section 73AAA of the Act of 1960 speaks about the term of the office of the elected members of the committee. It says that the term of the office of the elected members of the committee and its office bearers shall be five years from the date of the election and the term of the office bearers shall be co-terminus with the term of the committee and on the expiry of the term of the committee, the members shall be deemed to have vacated their offices as members of the committee.

34. Sub-section (2) of Section 73-I of the Act of 1960 states that in case of a willful failure on the part of the committee to

intimate to the State Co-operative Election Authority as required under sub-section (1) for holding of its election, before expiry of its term and for any reasons whatsoever, the election of the members of the committee could not be held, before the expiry of its term, then, the members thereof shall cease to hold their office and in such a situation, the Registrar shall take action under Section 77A, i.e., to appoint a committee, consisting of not more than three members of the society, or one or more authorised officers, who need not be members of the society to manage the affairs of the society till a new committee enters upon office.

35. Thus, it is evident that for the reason, if the society fails to communicate to hold the election by the election committee under sub-section (14) of Section 73CB of the Act of 1960 and for any reason whatsoever, if the election could not be held before the expiry of its term, then, the members thereof shall cease to hold their office on expiry of term and it results in the appointment of a committee to manage the society.

36. At the same time, if the provisions of Constitution of India namely Article 243E to 243U and 243ZJ(2) are considered, it

is evident that the right to hold the office is restricted to the term of office and not beyond the same. Hence, it is not a right to continue in office after expiry of term of the office.

37. The exclusion of Type “A” societies from protection to continue in office after expiry of the term can be said to be in consonance with the Act of 1960 and the Constitution of India.

38. Therefore, it cannot be said that second proviso to sub-section (3) of Section 73 AAA of the Act of 1960 or exclusion of Type "A" societies from protection, has no nexus to the object and purpose of the Act of 1960.

39. Having held that no right vests in favour of any Committee or its members to continue after the expiry of tenure provided under the statute, it is to be examined, whether any protection or concession granted to continue after expiry of period of term of office, can be withdrawn.

40. It is well a settled principle of law that right to vote in elections and to contest elections is not a fundamental right or constitutional right, but it is purely statutory in nature and except

only to the extent conferred by the statute [*Ram Chandra Choudhary & Ors v. Roop Nagar Dugdh Utpadak Sahakari Samiti Limited and Others* reported in ***2026 SCC Online SC 583].*** This principle can equally be extended to the right to continue in office after expiry of the term of office.

41. Since, it is clear that it is not a vested right to continue in office after expiry of the term of office, such protection is to be considered as a concession granted by the State, considering the situation prevailing at that time of COVID-19 pandemic.

42. At this stage, it would be beneficial to refer to the judgment of this Court in the case of *Vishwas Bajirao Patil vs. State of Maharashtra* reported in ***[2019 SCC Online Bom 1770]***

> *"12. The Supreme Court of India in its judgment reported as 2011) 6 SCC 570, J.S.Yadav v. State of U.P., pertinently observed:*
>
> > *20……*
> >
> > *21. 'The word "vest" is normally used where an immediate fixed right in present or future enjoyment in respect of a property is created. With the long usage the said word "vest" has also acquired a meaning as "an absolute or indefeasible right". It had a "legitimate" or "settled expectation" to obtain right to enjoy the property, etc. Such "settled expectation can be rendered impossible of fulfillment due to change in law by the legislature. Besides this, such a "settled expectation or the*

so-called "vested right" cannot be countenanced against public interest and convenience which are sought to be served by amendment of the law. [Vide Howrah Municipal Corpn. v. Ganges Rope Co. Ltd., (2004) 1 SCC 663]

22. Thus, "vested right" is a right independent of any contingency. Such a right can arise from a contract, statute or by operation of law. A vested right can be taken away only if the law specifically or by necessary implication provides for such a course.

20. The West Bengal Taxation Tribunal in its judgment reported as (2009) 20 VST 933(WBTT), K. B. Tea Products Pvt. Ltd. vs. Commercial Tax Officer pertinently observed:

"40. Meaning and legal implication of vested right are well-known. It is a kind of full and completed right without any reservation or qualification. This concept of unalterable and irrevocable vested right is usually available in private sphere and also against administrative actions of the Executive of the State. But such concept/doctrine of unalterable or untouchable vested right is not available against sovereign legislative actions so long as such legislations do not offend any constitutional right or safeguard. In fact, no right derived from any statutory provision can be said to be vested right in the strict sense of the term inasmuch as it is always open to the Legislature to amend or delete or repeal an existing law having the effect of taking away or affecting a statutory right or privilege. No statutory right can be said to be permanent and it can be modified, withdrawn or rescinded by appropriate enactment. A legal right derived from or under any statutory provision subsists so long as the particular legal provision conferring such right remains unchanged. In the field of public law and in our Constitutional Scheme all rights except fundamental rights can be affected by the Legislature through appropriate legislation. It is also well-settled that all statutory rights or privileges are subject to public interest and legislative changes. Only limitations are that no right can be taken away or curtailed except by law or authority of law and that legislations cannot offend the Constitution. In view of such nature of statutory right and in recognition of legislative supremacy principles of promissory estoppel are not usually made available against

Legislature or legislative interventions."

43. After going through the aforementioned observations, it is evident that a vested right can arise from a contract, statute or by operation of law. It can be taken away only if the law specifically or by necessary implication provides for such a course. A concept of inalterable or untouchable vested right is not available against sovereign legislative actions as long as such legislation do not offend any constitutional right or safeguard. In fact, no right derived from any statutory provision can be said to be vested right. In a strict sense of the term inasmuch as, it is always open to the legislature to amend or delete or repeal an existing law having the effect of taking away or affecting the statutory right or privilege. No statutory right can be said to be permanent and it can be modified, withdrawn or rescinded by the appropriate enactment.

44. Hence, without any element of doubt, it is clear that a legal right derived from any statutory provision subsists so long as the particular legal provision conferring such right remains unchanged. In the field of public law and in our Constitutional Scheme, all rights except for fundamental right, can be altered by

the Legislature through appropriate legislation. Only limitations are that no right can be taken away or curtailed except by law or by the authority of law and that legislation cannot offend the constitution.

45. In the matter at hand, admittedly, petitioners are not claiming that it is a fundamental right of the petitioners to continue in the post even after the expiry of the term. The protection which was granted considering the prevailing circumstances during the COVID-19 pandemic to continue to hold the office even after expiry of the period of tenure subject to certain conditions, the said exception was a kind of concession. Thus, it is alterable and can be taken away or curtailed by law or authority of law.

46. It is a settled law that the recipient of a concession has no legally enforceable right against the Government to claim the grant of such concession except to enjoy the benefits of the concession during the period for which it is granted. It is indefeasible that such exception may be taken away in exercise of very power under which it was granted.

47. The concession granted to continue in the office even after expiry of term of office by inserting the proviso was withdrawn

for Type "A" societies and since it was withdrawn in the same manner, as it was granted, no illegality is found in the same.

48. In the circumstances, we have no hesitation to hold that the State undoubtedly possesses the power to withdraw or modify the concession granted under the statutory provision.

49. The Hon'ble Supreme Court of India, in the case of *Subramanian Swamy* (supra), has held thus:

> *"58. The Constitution permits the State to determine, by the process of classification, what should be regarded as a class for purposes of legislation and in relation to law enacted on a particular subject. There is bound to be some degree of inequality when there is segregation of one class from the other. However, such segregation must be rational and not artificial or evasive. In other words, the classification must not only be based on some qualities or characteristics, which are to be found in all persons grouped together and not in others who are left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. Differentia which is the basis of classification must be sound and must have reasonable relation to the object of the legislation. If the object itself is discriminatory, then the explanation that classification is reasonable having rational relation to the object sought to be achieved is immaterial.*
>
> *70. Undoubtedly, every differentiation is not a discrimination but at the same time, differentiation must be founded on pertinent and real differences as distinguished from irrelevant and artificial ones. A simple physical grouping which separates one category from the other without any rational basis is not a sound or intelligible differentia. The separation or segregation must have a systematic relation and rational basis and the object of such segregation must not be discriminatory. Every public servant against whom there is reasonable suspicion of commission of crime or there are allegations of an offence under the PC Act, 1988 has to be treated equally and*

similarly under the law. Any distinction made between them on the basis of their status or position in service for the purposes of inquiry/investigation is nothing but an artificial one and offends Article 14."

50. In *Hiral* (supra), the Hon'ble Supreme Court of India, has held thus:

"33. In Lachhman Dass v. State of Punjab, Subba Rao, J. warned that overemphasis on the doctrine of classification or an anxious and sustained attempt to discover some basis for classification may gradually and imperceptibly deprive Article 14 of its glorious content. That process would inevitably end in substituting the doctrine of classification for the doctrine of equality. This admonition seems to have come true in the present case, as the classification of "adult male person" clearly subverts the doctrine of equality, by restricting the reach of a social beneficial statute meant to protect women against all forms of domestic violence.

34. We have also been referred to D.S. Nakara v. Union of India24. This judgment concerned itself with pension payable to government servants. An office memorandum of the Government of India dated 25-5-1979 restricted such pension payable only to persons who had retired prior to a specific date. In holding the date discriminatory and arbitrary and striking it down, this Court went into the doctrine of classification, and cited from Special Courts Bill, 1978, In re and Maneka Gandhi v. Union of India and went on to hold that the burden to affirmatively satisfy the court that the twin tests of intelligible differentia having a rational relation to the object sought to be achieved by the Act would lie on the State, once it has been established that a particular piece g of legislation is on its face unequal. The Court further went on to hold that the petitioners challenged only that part of the scheme by which benefits were admissible to those who retired from service after a certain date. The challenge it was made clear by the Court, was not to the validity of the scheme, which was wholly acceptable to the petitioners, but only to that part of it which restricted the number of persons from availing of its benefit.

35. The Court in D.S. Nakara case went on to hold: (SCC pp. 330-31, para 42)

"42. If it appears to be undisputable, as it does to us that the

pensioners for the purpose of pension benefits form a class, would its upward revision permit a homogeneous class to be divided by arbitrarily fixing an eligibility criteria unrelated to purpose of revision, and would such classification be founded on some rational principle? The classification has to be based, as is well settled, on some rational principle and the rational principle must have nexus to the objects sought to be achieved. We have set out the objects underlying the payment of pension. If the State considered it necessary to liberalise the pension scheme, we find no rational principle behind it for granting these benefits only to those who retired subsequent to that date simultaneously denying the same to those who retired prior to that date. If the liberalisation was considered necessary for augmenting social security in old age to government servants then those who, retired earlier cannot be worse off than those who retire later. Therefore, this division which classified pensioners into two classes is not based on any rational principle and if the rational principle is the one of dividing pensioners with a view to giving something more to persons otherwise equally placed, it would be discriminatory. To illustrate, take two persons, one retired just a day prior and another a day just succeeding the specified date. Both were in the same pay bracket, the average emolument was the same and both had put in equal number of years of service. How does a fortuitous circumstance of retiring a day earlier or a day later will permit totally unequal treatment in the matter of pension? One retiring a day earlier will have to be subject to ceiling of Rs 8100 p.a. and average emolument to be worked out on 36 months' salary while the other will have a ceiling of Rs 12,000 p.a. and average emolument will be computed on the basis of last 10 months' average. The artificial division stares into face and is unrelated to any principle and whatever principle, if there be any, has absolutely no nexus to the objects sought to be achieved by liberalising the pension scheme. In fact this arbitrary division has not only no nexus to the liberalised pension scheme but it is counterproductive and runs counter to the whole gamut of pension scheme. The equal treatment guaranteed in Article 14 is wholly violated inasmuch as the pension rules being statutory in character, since the specified date, the rules accord differential and discriminatory treatment to equals in the matter of commutation of pension. A 48 hours' difference in matter of retirement would have a traumatic effect. Division is thus both arbitrary and unprincipled. Therefore, the classification does not stand the test of Article 14."

51. So also in the case of *Nareshchandra Agrawal vs.*

Institute of Chartered Accountants of India and others reported in **(2024) 13 SCC 241,** the Hon'ble Supreme Court of India, has held thus:

> *"37.6. The delegated power to legislate by making rules "for carrying out the purposes of the Act" is a general delegation, without laying down any guidelines as such. When such a power is given, it may be permissible to find out the object of the enactment and then see if the rules framed satisfy the Act of having been so framed as to fall within the scope of such general power confirmed.*
>
> *37.7. However, it must be remembered that such power delegated by an enactment does not enable the authority, by rules/regulations, to extend the scope or general operation of the enactment but is strictly ancillary. It will authorise the provision of subsidiary means of carrying into effect what is enacted in the statute itself and will cover what is incidental to the execution of its specific provision. In that sense, the general power cannot be so exercised as to bring into existence substantive rights or obligations or disabilities not contemplated by the provisions of the Act itself."*

52. There is no dispute about the law laid down in the above referred judgments. However, admittedly, no challenge is raised to the classification of societies made under the Rules of 2014. Therefore, a question is whether the exclusion of Type "A" societies from grant of protection and continuation of protection to other societies, stands to the test of Article 14 of the Constitution of India.

53. It is the case of the petitioners that since the Rules of

2014 are relating to conduct of election of societies under the Act of 1960, the same cannot be employed for the purpose of sub-section (3) of Section 73 AAA of the Act of 1960, for the reason that sub-section (3) of Section 73 AAA is not relating to conduct of election.

54. Before examining the merits in the said argument, it would be appropriate to go through the Rules of 2014.

55. The Rules of 2014 are made by exercising the powers conferred under Section 165 of the Act of 1960 and all other powers enabling on that behalf, by the Government of Maharashtra. These Rules are framed for the purpose of conduct of elections to Societies under the Act.

56. The Rules of 2014 classifies the societies in Type "A" to Type "E" and election of such societies shall be subject to the provision of sub-section (11) of Section 73CB of the Act of 1960, which says that the State Co-operative Election Authority shall hold the elections of the society or class of societies as per the procedure, guidelines and the manner, including using the latest technology and expertise, as may be prescribed.

57. The Rule 4 of the Rules of 2014 classifies the societies Type-A to Type-E societies in the following manner:

> *"**4. Types of the societies***
> *For the purpose of conduct of elections to societies under the Act, the societies shall be classified as follows, namely:-*
> *The election of the members of the committees and officers of the committees of the societies of the categories mentioned below shall be subject to the provisions of sub-section (11) of section 73CB of the Act.*
> ***(I) Type "A" societies.-***
> *(1) State Level Apex or Federal Co-operative Societies;*
> *(2) Maharashtra State Co-operative Bank;*
> *(3) Maharashtra State Co-operative Agriculture and Rural Multipurpose Development Bank;*
> *(4) Maharashtra State Co-operative Housing Finance Corporation;*
> *(5) Maharashtra State Co-operative Tribal Development Corporation;*
> *(6) Maharashtra State Cotton Growers' Co-operative Marketing Federation;*
> *(7) All Co-operative Sugar Factories;*
> *(8) All District Central Co-operative Banks;*
> *(9) All Co-operative Spinning Mills;*
> *(10) All Co-operative Milk Federations or Unions having average per day milk collection 1,00,000 or more than 1,00,000 liters during the preceding financial year.*
> ***(II) Type "B" societies.-***
> *(1) All Co-operative Urban banks;*
> *(2) All Salary Earners' Co-operative Banks;*
>
> *[(3) All primary Agricultural Co-operative Credit Societies and Adiwasi Agricultural Co-operative Credit Societies having paid up share capital of ten lakh rupees or more;]*
>
> *[(4) All Co-operative Credit Societies having area of operation more than a district;]*
> *(5) Salary Earners' Co-operative Credit Societies having paid up share capital of Rs.1 Crore and more, as on the 31st March of the preceding year;*
> *(6) All Government aided Co-operative Processing Societies excluding Sugar Factories;*
> *(7) All Government aided Co-operative Industrial Societies or Industrial Estates;*
> *(8) All District or Taluka Co-operative Sale-Purchase Unions;*

(9) All District Central Co-operative Consumer Societies;
[(10) All Co-operative Hospitals and Co-operative Educational Institutes;]
(11) All Co-operative Milk Federations/Unions having average per day milk collection less than 1,00,000 liters during the preceding financial year;
(12) Any other District or Taluka Co-operative Federations or Unions, which are not included in Type "A" Societies.

(III) Type "C" Societies.-

(1) [All primary Agricultural Co-operative Credit Societies and Adiwasi Agricultural Co-operative Credit Societies having paid up share capital less than ten lakh rupees.];
[(2) All Co-operative Credit Societies having area of operation which extends to a district;]
(3) Salary Earners' Co-operative Credit Societies having paid up share Capital of less than Rs. 100 lacs, as on the 31st March of the preceding year;
(4) Housing Societies having [more than two hundred and fifty members] as on the 31st March of the preceding year;
(5) All Primary Consumer Co-operative Societies;
[(6) All Primary Co-operative Dairy having average per day milk collection more than 100 liters in the preceding financial year;
(7) All Divisional and District Co-operative Boards;]
(8) [***];
(9) All types of Primary Co-operative Marketing Societies;
(10) [* *];*
(11) Other Agricultural Co-operative societies;
(12)Co-operative Lift Irrigation and Water users Societies having 200 members or more than 200 members as on the 31st March of the preceding year;
(13)[***].

(IV) Type "D" Societies.-

(1) [***]
(2) All Co-operative Lift Irrigation and Water Users Societies having less than 200 members.
(3) All Labour/Forest Labour Co-operative Societies:
[(4) All non-aided Co-operative Industrial Societies (and non-aided Co-operative Industrial Estates]
(5) All non-aided Co-operative processing societies excluding

> *Sugar Factories;*
> *(6) All types of primary weavers (Handloom and Power loom) Co-operative Societies;*
> *(7) All primary dairy societies having milk collection less than 100 liters per day in the preceding financial year;*
> *(8) All Primary poultry, Fishery, piggery and livestock societies;*
> *(9) The self-employment Co-operative societies, non-employed youths' Co-operative societies and societies registered under as a general society classifications:]*
> ***Provided*** *that if any dispute arises regarding determination of classification of type of society, the decision of the SCEA thereon shall be final and shall be binding on all the parties to the dispute.*
> *[(V) Type "E" Societies.-*
> *The Housing Societies having less than or up to two hundred and fifty members as on 31st March of the preceding year.]"*

58. Sub-rule (1) of Rule 5 mandates that the election authority shall maintain a register in Form 'E-1' showing the names of all societies due for election in the subsequent calendar year with details thereof. This duty is also cast upon the District Election Officer and Taluka Cooperative Election Officer to maintain such register in their respective offices of their jurisdiction.

59. Sub-rule (2) of Rule 5 says that the committee of the society shall deliver a report in Form 'E-2' to the District Cooperative Election Officer, Taluka or Ward Co-operative Election Officer, as the case may be, six months before the expiry of the period of the Committee of the society.

60. The second proviso of sub-rule (2) of Rule 5 says that if the committee of the society fails to report as per clause (a) of sub-section (14) of section 73 CB, which relates to a duty cast upon all the committees of every cooperative societies to inform the State Cooperative Election Authority about the expiry of its term of office at least six months before the date of expiry of such term, the District Co-operative Election Officer/Taluka or Ward Cooperative Election Officer shall proceed to enlist the name of such society or societies for the purpose of Rules of 2014, on the basis of information available in the register and such enlisting the names shall be *prima facie* evidence that the election of the society is due to be held, unless proved to be contrary.

61. In Part-III of the Rules of 2014, the Preparation of Electoral Roll is provided. Whereas, in Part IV, Administrative Machinery for the conduct of elections and in Part-V, provisions relating to the Conduct of Elections are provided. In Part-VI relates to the Poll and the Part-VII is about the Counting of Votes and Declaration of Results. Part-VIII is about the Election Expenses, Part-VIIIA is about the Publication of Result, Forfeiture or Return

of Deposit, Custody and Disposal of Election Papers. Part-VIII-B is about the Manner of Filling up Casual Vacancies. Part-XI is about the Special Provisions in respect of Election of the Committee to the Type "C" Societies and the Part-X is about the Election of the Committee to the Type "D" Societies. Part-X-1A is about the Provisions in Respect of the Election of the Committee to Type "E" Societies. Part-XA is about the Manner of Election of Office Bearers. Part-XI is about the Election Disputes. Part-XII is about the Corrupt Practices and Electoral Offences.

62. Thus, the Rules of 2014, are a complete code for all the matters, right from informing the election authority about the expiry of its term of office by society at least six months before the date of expiry of such term till the raising of election disputes after the elections.

63. Having considered the relevant provisions of Rules of 2014 and provisions of the Act of 1960, it can safely be said that the Rules of 2014 come into picture in relation to every society 6 months before the expiry of the term of the societies.

64. In the aforementioned backdrop, at this stage, it would

be apposite to refer to sub-section (3) of Section 73 AAA of the Act of 1960, which reads thus:

> *"(3) The term of the office of the elected members of the committee and its office bearers shall be five years from the date of election and the term of the office bearers shall be co-terminus with the term of the committee 'land on the expiry of the term of the committee, the members shall be deemed to have vacated their offices as members of the committee."*

65. From the language of sub-section (3) of Section 73AAA, it is evident that the said provision is divided into two parts. First part relates to the term of the office of the elected members of the committee and its office bearers and, the second part relates to the consequences to be followed on the expiry of term of office.

66. The consequences on the expiry of the term of the committee of society would be that the members of the committee of the society shall be deemed to have vacated their offices as members of the committee.

67. This deeming provision would come into force only in the eventuality, if the elections are not held before expiry of term of office. Thus, this deeming provision has a direct relation with the election and therefore, it cannot be accepted, as argued by the

petitioners that, sub-section (3) of Section 73AAA does not relate to election or conduct of election.

68. Moreover, when the proviso uses the expression 'if the election could not be held', it means that the election could not be held as provided under the Rules of 2014, wherein the classification of societies are made as Type "A" to Type "E" societies. In other words, it can also be said that the protection, which is to be granted to the societies, if the elections are not held before expiry of term of office, is to be granted to the societies as classified under the Rules of 2014 and which also covers all the societies classified under the Act of 1960, with different nomenclature.

69. It is not the case of the petitioners that societies covered under Clauses 10A, 12, 13, 15, 16, 16A, 22, 25, 28 and 28 of Section 2 of Act of 1960 are not covered by classification made under the Rules of 2014 and those societies are different than the societies covered under the Rules of 2014.

70. If we look at the various Rules framed under the Act of 1960, it can be inferred that the societies are classified and sub-classified under such Rules for a specific purpose. For instance, for

the purpose to charge registration fees at the time of making application for registration under Rule 4 of the Maharashtra Cooperative Societies Rules, 1961 (hereinafter referred to as "the Rules of 1961") the societies are categorized. Similarly, the societies are categorized for payment of contribution per year per society under Rule 53 of the Rules of 1961. The societies are further classified for audit purposes as Class "A", "B" and "C" under Rule 69(1)(f) (vii) of the Rules of 1961. Furthermore, the societies are categorized for fixing rates of daily allowances and sitting fees while a member of the committee on tour, under Rule 107A(2) of the Rules of 1961. Similarly, for the purpose of handling or keeping cash at hand Rule 107C of the Rules of 1961, the categorization is made as Primary Societies, Societies at Taluka Level, District Level, Federal Societies and State Level Federal Societies.

71. Thus, it is evident that under the Act of 1960, considering the nature of functions of the societies and other relevant factors, the societies are categorized, considering its necessity looking at the purpose to be achieved to give effect to the provisions of the Act of 1960.

72. Having held so, we have no hesitation to say that the categorization as done under the Rules of 2014, may be employed for sub-section (3) of Section 73AAA of the Act of 1960. Further we have no hesitation to hold that Type "A" societies are a separate and distinct class in itself. Hence, exclusion of only Type "A" societies and not other societies from protection is not in violation of Article 14 of the Constitution of India. Moreover, such exclusion cannot be held as contrary to the object and purpose of the Act of 1960.

73. Now let us ponder upon the argument that Objects and Reasons are required to test the validity of the provision.

74. In the case of *Exide Industries limited* vs. *Union of India* reported in ***2007 SCC Online Cal 932,*** it is held that non-disclosure of Objects and Reasons *per se* would not impinge upon the constitutionality of a provision unless the provision is ambiguous and the possible interpretation violates Part-III of the Constitution. It further says that to hold the provision as violative of Constitution and on account of failure of the legislature to state the Objects and Reasons would amount to an indirect scrutiny of

the motives of the legislature behind the enactment. Such a course of action is unwarranted.

75. In view of above referred observations, there is nothing to say that the proviso under challenge is contrary to the object and purpose of the Act or it is not in consonance with Constitution of India, though no reasons, justifying the amendment are stated, it will not make the proviso under challenge as unconstitutional. Thus, the petitioners fail on this count too.

76. In *Hiral* (supra), the Hon'ble Supreme Court of India, has relied upon the judgment in the case of *Shashikant Laxman Kale Vs. Union of India*, reported in **(1990) 4 SCC 366**, in which, the Hon'ble Supreme Court of India has held as under:

> *"17. For determining the purpose or object of the legislation, it is permissible to look into the circumstances which prevailed at the time when the law was passed and which necessitated the passing of that law. For the limited purpose of appreciating the background and the antecedent factual matrix leading to the legislation, it is permissible to look into the Statement of Objects and Reasons of the Bill which actuated the step to provide a remedy for the then existing malady. In A. Thangal Kunju Musaliar v. M. Venkatachalam Potti (1955) 2 SCR 1196, the Statement of Objects and Reasons was used for judging the reasonableness of a classification made in an enactment to see if it infringed or was contrary to the Constitution. In that decision for determining the question, even affidavit on behalf of the State*

> *of "the circumstances which prevailed at the time when the law thereunder consideration had been passed and which necessitated the passing of that law." It was reiterated in State of W.B. v. Union of India (1964) 1 SCR 371 that the Statement of Objects and Reasons accompanying a Bill, when introduced in Parliament, can be used for 'the limited purpose of understanding the background and the antecedent state of affairs leading up to the legislation'. Similarly, in Pannalal Binjraj v. Union of India 1957 SCR 233 a challenge to the validity of classification was repelled placing reliance on an affidavit filed on behalf of the Central Board of Revenue disclosing the true object of enacting the impugned provision in the Income Tax Act."*

77. There is no dispute that it is permissible to look into the circumstances which prevailed at the time when the law was passed and which necessitated the passing of the law. The above observation further makes it clear that the limited purpose is there to appreciate the background and the antecedent factual matrix leading to the legislation. It further says that it is permissible to look into the Statement of Objects and Reasons of the Bill which actuated the step to provide a remedy for the then existing malady.

78. However, it cannot be gathered from it that if the Objects and Reasons of the Bill are absent and though the legislation is in consonance with the Objects of the Act and the constitutional provisions, such legislation will be unconstitutional.

79. Moreover, we have discussed the purpose to revert

back to the mandate of sub-section (3) of Section 73AAA of the Act of 1960 and exclusion of Type "A" societies from the protection. In the circumstances, even in absence of Objects and Reasons in the Bill for amending the proviso of sub-section (3) of Section 73AAA, will not make the said amendment unconstitutional.

80. Having held that all the contentions made by the petitioners have no merit, we have no hesitation to hold that the petition needs to be dismissed.

81. Accordingly, we pass the following order:

The writ petition is **dismissed**.

82. Rule stands discharged with no order as to costs. Applications, if any, shall stand disposed of accordingly.

(RAJNISH R. VYAS, J.) **(ANIL S. KILOR, J.)**

Signed by: Mr. Niranjan Thawre
Designation: PA To Honourable Judge
Date: 07/10/2026 15:13:55