

furnish the society with a certified copy of the bye-laws approved and registered by him.

NOTES

The object of the Rule is to establish identity of votes. This Rule provides that person whose name appears in provisional list can be identified as one whose name appears in Register of members and so he is entitled to vote.—*Dhondiba v. Someshwar*, 1979 Mah. L.J. 311.

Rule 5.—Object of Rule 5 of the Maharashtra Co-operative Societies Rules is to establish identity of voter. The said rule safeguard and provides for reasonable guarantee that person whose name appears in provisional list can be identified as one whose name appears in the Register of Members and hence he is entitled to vote. *Dhondiba Vs. Someshwar*, 1979 Mah. L.J. 31.

Rules 5 and 10.—Whether delegate member disqualified. Nomination paper of petitioner rejected on the ground that he was dealer in goods for which society gives loans and is disqualified under section 73F. It was contended disqualification covers a members of the Bank and not the petitioner who is contesting as delegate of other society. It was held that bye-laws provide that only a person who is a member of Managing Committee of the affiliated society can be a person who is member of Managing Committee of the affiliated society can be nominated as a delegate to contest for Board of Directors. *Amar Sinh s/o Shivajirao Pandit Vs. State of Maharashtra*, 1998(2) Bom. C.R. 575.

R. 6. Form of report under section 9(2).—The report to be made by the Registrar to the State Government under sub-section (2) of Section 9 shall be in Form 'C'.

Notes

Rule 6.—The Collector does not have jurisdiction to make an enquiry into entitlement of membership of persons shown in Register of members of society. The Collector is only permitted to ensure identity of voters concerned. The Collector held an enquiry and deleted the names of petitioners on the ground that they were not entitled to be members of society. The Court held that correctness of the order is no substitute for initial lack of jurisdiction. *Dhondiba Vs. Someshwar*, 1979 Mah. L.J. 311.

7. Refusal of Registration.—Where any society does not furnish the information in regard to the society as required by the Registrar or fulfil any of the conditions laid down in the Act¹ [the rules or the norms and conditions for registration of societies or class of societies as specified by the Registrar,] the Registrar may refuse to register that society.

8. Matters in respect of which Registrar may direct society to make bye-laws or society may make bye-laws.—(1) The Registrar may require a society to make bye-laws in respect of all or any of the following matters; that is to say—

- (a) the name of the society and address of the society and its branches;
- (b) the area of operation;
- (c) the objects of the society;
- (d) the manner in which and the limit up to which the funds of the society may be raised, the maximum share capital which any one member may hold and the purpose to which the funds would be made applicable;

1. These words were substituted by "or these Rules," by .G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.

- (e) the terms and qualifications for admission to membership;
- (f) the privileges, rights, duties and liabilities of members including ¹[nominal and associate members];
- (g) the consequences of default in payment of any sum due by a member;
- ²[(g-1) norms for participation in the affairs of the society and also minimum level of utilization of services of the society by a member being active member.]
- (h) conditions regarding sale or disposal of produce of members wherever applicable;
- (i) in the case of credit societies-
 - (i) the maximum loan admissible to members
 - (ii) the maximum rate of interest on loans to member;
 - (iii) the conditions on which loans may be granted to members and penalties for misapplication of loans so advanced;
 - (iv) the procedure for granting extension of time for the repayment of loans and advances;
 - (v) the consequences of default in payment of any sum due;
 - (vi) the circumstances under which a loan may be recalled;
- (j) in the case of non-credit societies, the mode of conducting business such as manufacture, purchase, sale, stock taking and other like matters;
- (k) in the case of a composite society, that is to say, society having both credit and non-credit functions, matters referred to in clauses (i) and (j);
- (l) the mode of holding meetings of the general body and of the committee;
- (m) the procedure for expulsion of members;
- (n) the manner of making, altering, abrogating bye-laws;
- (o) the mode of appointment either by election or otherwise and removal of members of the committee and other officer, if any, their duties and powers;
- (p) the Chairman's powers, duties and functions and his removal on his losing support of the majority;
- (q) the method of recruitment, the conditions of service and the authority competent to fix, revise or regulate the scale of pay and allowances of salaried officers and servants of the society and the procedure to be followed in the disposal of disciplinary cases against them;
- (r) the mode of custody and investment of funds and mode of keeping the accounts and records;
- (s) the disposal of net profits;
- (t) the manner in which penalty should be levied on a member who is found to be guilty

1. These words were substituted for the words "nominal, associate and sympathizer members" by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.

2. Clause (g-1) inserted by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.

- of breach of bye-laws;
- (u) appointment of a provisional committee where necessary;
 - (v) the mode of appointment and removal of committee and its powers and duties;
 - (w) the mode of convening annual and special ¹[general body meetings], issue of notices, and the business which may be transacted thereat;
 - (x) in the event of winding up of the society, the purpose for which surplus assets, if any, shall be utilised;
 - ²[(x-1) provisions regarding co-operative education and training as per section 24 A;
 - (x-2) furnishing of returns as per section 79;
 - (x-3) appointment of an Auditor;
 - (x-4) Classification of active and non-active member as per section 26;]
 - ³[(y) the constitution of the committee and other bodies of the society as provided in the Act, the Rules and the Bye-laws.]
 - (z) any other matters incidental to the management of its business.
- ⁴[Provided that, a Co-operative Credit Structure entity shall follow the rules or guidelines issued by the National Bank.]
- (2) A society may make bye-laws for all or any of the following matters, that is to say—
- (a) the circumstances under which withdrawal from membership may be permitted;
 - (b) the procedure to be followed in cases of withdrawal, ineligibility and death of members;
 - (c) the conditions, if any, under which the transfer of share or interest of a member may be permitted;
 - (d) the method of appropriating payments made by members from whom moneys are due;
 - (e) the authorisation of an officer or officers to sign documents and to institute and defend suits and other legal proceedings on behalf of the society;
 - (f) the constitution and maintenance of various funds as required to be maintained under the provisions of the Act, rules and bye-laws;
 - (g) constitution of representative body consisting of delegates of members of the society and the mode of election of such delegates to exercise the powers of the general body of members and to specify the powers which may be exercised by such smaller body.

Notes

Rule 8.—Bye-law of the society does not have force of law. *Girdharilal Bhaulal Vs. State of Maharashtra*, 1991 Mah. L.J. 630.

Rule 8(d).—Funds referred to in rule 8(d) are funds raised for the carrying out objects of the

1. These words were substituted for the words "general meetings" by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.
2. Clauses (x-1) to (x-4) inserted by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.
3. Clauses (y) was substituted by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.
4. Proviso inserted by G.N. No. CSL-2008/C.R. 645/15-C, dated 30th January 2012.

society and do not include service charges or profit from the business of the society. **Kulkarni Vs. Bombay Co-op. Hsg. Federation, 1966 C.T.D. 186 para 6.**

Rule 8 and 10.—Bye-laws are framed for internal management of the society and they are binding on the persons who are members of the society, thus bye-laws cannot be claim force of law so as to bind stranger non-members such as licensees from members. Licence by member without previous written consent as per Bye-laws cannot make the licence illegal. **Sardar Ajitsingh Vs. Salbaba Co-operative Housing Society Ltd., 1978 Mah. L.J. 404.**

Rule 8.—Framing of by-laws by society. By-law No. 8 clause . Absence of "A" Directors of Board of Directors of Sangh from four consecutive meetings. Resolution by Sangh declaring that "A" has ceased to be a member of Board of Directors. No opportunity given to "A" to explain his absence. Resolution was held to be invalid. **Krishna Khore Sahakari Dudh Utpadak & Purvatha Sangh Ltd. VS. Shri Mohanrao Gantpatrao Shinde, 1986(2) Bom. C.R. 87.**

Rule 8(1), Clause (o) and (v).—Expression "mode of appointment" used in the caluses should be given wider meaning so as to include within it, period or term of the committee, its members and its other officer-bearers. **Wasudeo Gulabrao Deshmukh Vs. State of Maharashtra, 1995(2) Mah. L.J. 160.**

9. First bye-laws of society.—When a society has been registered the bye-laws of the society as approved and registered by the Registrar shall be the bye-laws of the society.

10. Classification and sub-classification of societies.—(1) After registration of a society, the Registrar shall classify the society into one or other of the following classes and sub-classes of societies prescribed below according to the principal object provided in the bye-laws -

Class	Sub-class	Examples of societies falling in the class of sub-class, as the case may be.
1	2	3
¹ [1 Agriculture society	(a) Marketing society	All purchase and slae Union and Marketing societies of Agricultural product.
	(b) Other Agricultural societies	Dairy and cattle Breeding societies.]
¹ [1A Crop protection society		
¹ [1B Lift Irrigation society		
2 Consumers' Society		Stores and canteens
3 Co-operative Bank	(a) Central Bank	⁴ [District Central Co-operative Banks]. ² [* *]
² [3A		⁵ [Co-operative Agriculture and Rural Multi-purpose Development Bank] having in their bye-laws to advance loans to Co-operative Societies.]

1. Added by G.N. of 8-11-1971.

2. Deleted by G.N. of 8-11-1971.

4. These words were substituted for the words "District Central Banks" by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.

5. These words were substituted for the words "Land Development Banks" by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.

4	Farming Society	(a) Collective Farming Society.	Farming societies where maajor area of lands is acquired from outside agency for cultivation by members.
		(b) Joint Farming Society	Societies where the major area of land brought together for cultivation is held by members.
		¹ [(c) Dairy Farming Society	Farming Societies undertaking dairy activites complientry to their able farming activites or vice versa."]
5	Housing Society	(a) Tenant Ownership Housing Society.	Housing Societies where land is held either on lease-hold or free-hold basis by societies and houses are owned or arc to be owned by members
		(b) Tenant Co-partnership Housing Society.	Housing Societies which hold both land and buildings either on lease hold or free-hold basis and allot them to their members
		(c) Other Housing Societies	Housing Mortgage Societies and House Construction Societies.
6	Processing Societies	(a) Agricultural Processing Society	Societies which process agricultural produce like Co-operative Sugar Factories and Oil Mills.
		(b) Industrial Processing Society.	Wool Processing and Tanners Societies.
7	Producer's Society	(a) Industrial Producer's Society.	Weavers' and Carpenters' Societies.
		(b) Labourer's Industrial Society.	Forest Labourers' Societies and Labour Contract Societies.
		² [.....]	
8	Resource Society	(a) Credit Resource Society.	³ [Agricultural Credit thrift, Urban Credit and Salary earners Soc.
		(b) Non-Credit Resource Society.	Seeds and implements and Agricultural Requisites Societies.
		(c) Service Resource Society.	Service Co-operative and Multipurpose Co-operative Societies
9	General Society	(a) Social	Better Living Societies and Eduction Societies.
		(b) Commercial	Insurance and Motor Transport Societies.
		(c) Other	Not falling in either of the above sub-classes.
	⁴ [10. Apex Societies		The Maharashtra State Co-operative Bank.]

(2) If the Registrar alters the classification of a society from one class of society to another, or from one sub-class thereof to another, he shall issue to the society a copy of his order as in the case of an amendment of the bye-laws.

Notes

Rule 10.—A member of tenant co-partnership housing society, by virtue of his complying with all

1. Column (3) substituted by G.N. of 4-11-1985.

2. Deleted by G.N. of 8-11-1971.

3. Column (3) substituted by G.N. of 4-11-1985.

4. Entry 10 inserted by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.

the requirements of the society get a right to occupy the premises allotted to him. It makes no difference to the nature of the said right whether it is exercisable immediately or in future. It will be difficult to accept the proposition that merely because the premises are not available for occupation in present, it should be held that the member has no such right to occupy. **Krishnaraj Jannadas Modi Vs. Colaba Land Co-operative Housing Society Ltd., Colaba, Bombay, 1979 Bom. C.R. 398.**

Rule 10.—Registration of document in a Tenant Co-operative Housing Society.—In a Tenant Co-operative Housing Society. The lands and buildings belonged to the society. While the flats are allotted for occupation to the members of the society. The arbitration was in respect of the ownership of shares in the society and the consequent right to occupy the flats which arose as a result of holding of shares in the said society. The dispute regarding transfer of shares was referred to the Arbitrator. The Arbitrator in their award held that the membership in the said society should be transferred to the respondents. With a direction to apply to the society for transfer of shares as per the award. The award therefore, did not deal with any declaration or creation of rights in an immovable property. It deals with the transfer of shares in the said society. Section 17(1)(b) of the Registration Act cannot have any application to such an award.

An award which deals with transfer of shares in the said flats in a Tenant Co-partnership society did not require registration under section 17(1)(b) of the Registration Act. **Usha Arvind Dongre Vs. Suresh Raghunath Kotwal, 1991 C.T.J. 507 : 1990(3) Bom. C.R. 389.**

Rule 10 and section 83(g) of Maharashtra Housing and Area Development Act, 1977.—Certificate of classification issued by the Registrar of Co-operative Societies is merely a prima facie evidence as to the nature of the society. Same cannot be treated as conclusive for the purpose of availability of statutory exemption under section 83(1)(g) of the Maharashtra Housing and Area Development Act. **Pearl Mansion Co-operative Housing Society Ltd., Vs. Municipal Corporation of Greater Bombay, 1994(2) Mah. L.J. 1133.**

Rule 10(1).—Jurisdiction of Civil Court was challenged. Members of proposed society excluded from membership. Plaint returned by Civil Court for presentation to proper Court. It was held that dispute was not between a society and a member. Registration of a society is a must to exclude jurisdiction of Civil Court. Return of plaint was bad. **Kapurchand Jivraj Jain, since deceased by his heirs Vs. Datta Co-operative Housing Society Ltd., Amalner, 1995(3) Bom. C.R. 365.**

Rule 10.—Who can decide interest of society.—Amendment of Bye-laws. Authority to Director. Registrar under directions of Government, directing plot holder of Co-operative Societies to amend their bye-laws and permit construction of multi-storied building on the plots who in turn will form Co-operative Societies of their own. Opposed by over-whelming majority of members. It was held, Registrar has powers to issue directions for amendment of bye-laws of society so also State Government has the power to give directions in public interest, but paramount consideration is the interest of the society. What is in interest of the society is for the society to decide and not for outside agency to say. The proposed amendments cannot be said to be in interest of society, hence cannot be forced. **State of Maharashtra Vs. Karvanagar Sahakari Griha Rachana Sanstha Maryadit, 2000 (Supp.) Bom. C.R. 864 (SC).**

Rights of co-operative societies for representation of Market Committee.—Petitioner societies though registered as agricultural marketing societies and possessing a license under Rule 10 of Mah. Co-operative Societies Rules but not doing business in marketing. Allowed representation in marketing committee under section 13(1) of the Marketing Act. It was held that mere registration will not suffice; the second condition of doing business of marketing produce should also be fulfilled to seek representation. **Babasaheb Manik Gunjal Vs. State of Maharashtra, 1999(4) Bom. C.R. 200.**

Rule 10(5)(b).—There is nothing to restrict conception of such holding to title based on registered conveyance, on agreement of sale and protected by section 53A of the Transfer of Property Act. Both the authorities have found the society to be tenants Co-operative Society. Bye-laws to that effect are framed. Right to occupation being vested in member, is subject to bye-laws. The licensee-tenant is not enabled to acquire rights of licensor member and cannot be held to be tenant under section 105 of the Transfer of Property Act and section 5(11) of the Rent Act. *Contessa Knitwear Vs. Udyog Mandir Co-operative Housing Society*, 1980 Bom. C.R. 493.

11. Maintenance of register.—(1) The register to be maintained by the Registrar under sub-section (4) of Section 9 shall be in Form 'D'.

(2) The Registrar shall divide the register into parts, one for each district in the State. A society shall be registered in that part for a district in which its head office is situate.

(3) The Registrar shall assign for each district and each class or sub-class of societies, a code symbol, for giving registration numbers to the societies ¹[***]

12. Amendment of bye-laws.—(1) Subject to the provisions of this rule, bye-laws of a society may be amended by passing a resolution at a ²[general body meeting] of the society held for that purpose.

(2) The society shall give due notice in accordance with its bye-laws to all the members for considering any amendment thereof.

(3) An amendment shall be deemed to have been duly passed, if a resolution in that behalf is passed in a ²[general body meeting] by not less than two-thirds of the members present thereat, and voting.

(4) After the resolution is passed, a copy thereof shall, within a period of two months from the date of the meeting at which the resolution was passed be furnished to the Registrar along with-

- (a) a copy of the relevant bye-laws in force with amendments proposed to be made in pursuance of the resolution, together with reasons justifying such amendments;
- (b) four copies of the text of the bye-laws as it would stand after amendment, signed by the officers duly authorised in this behalf by the committee of the society;
- (c) a copy of the notice given to the members of the society of the proposal to amend the bye-laws;
- (d) such other information as may be required by the Registrar.

On receipt of a copy of the resolution and other particulars referred to in sub-rule (4), the Registrar shall examine the amendment proposed by the society and if he is satisfied that the amendment is not contrary to the Act or the Rules and is in the interest of the society and co-operative movements, he may register the amendment and issue to the society a copy of the amendment certified by him under sub-section (2) of Section 13. Where the Registrar is of opinion that proposed amendment may be accepted subject to any modification, he may indicate to the

1. The words "and the societies shall be registered from the dates specified by him." by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.

2. These words were substituted for the words "general meeting" by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.

society such modification after explaining in writing reasons therefor.

Notes

Rule 12.—If the registrar is of the opinion that the proposal to amend bye-laws of a society should be accepted with modifications he is bound to intimate to the society such modifications and reasons in writing therefore. *Eknath Vs. State, 1985 (1) Bom. C.R. 605.*

Rule 12.—Power of Government to appoint Board of Director's under model bye-law No. 18.7 Power to amend bye-law vests in General Body and not in Board of Directors. Appointment of Board of Directors after consulting Indian Diary Corporation was held to be mandatory. *Eknath Vishnoo Hinge Vs. The State of Maharashtra, 1985(1) Bom. C.R. 598.*

13. Manner of calling upon society to make amendment to bye-laws.—(1) Subject to the provisions of this rule, the Registrar may by serving a notice in Form 'E' call upon a society to make such amendment to the bye-laws of the society as he considers to be necessary ¹[or as the provisions in bye-laws are inconsistent with the provisions of this Act and rules], within a period not exceeding two months from the date of service of notice. The notice shall state the exact amendment which the society should make.

(2) For the purposes of sub-section (2) of Section 14, the Registrar shall send a copy of the notice to ²[**] Federal Society duly notified under that sub-section with a request to offer its comments on the amendment within ³[forty-five days from the date of receipt of communication]. If ⁴[**] Federal Society fails to offer its comments within ³[forty five days], it may be presumed by the Registrar that the said society has no objection to the amendment.

(3) If after considering the comments of ⁴[**] Federal Society, if any, the Registrar considers that there is no objection to registering the amendment, he shall send a written notice in Form 'F' by registered post to the registered address of the society calling upon it to show cause in writing or through a properly authorised representative to appear before the Registrar on the date specified in the notice, as to why the proposed amendment should not be registered within the same specified in the notice in Form 'E'.

(4) After the expiry of the period specified in the notice in Form 'E' and after considering the reply, if any, of the society and the views, if any, of ⁴[**] federal society on such reply, the Registrar may, after duly considering the objections of the society (if any) to the proposed amendment, register the amendment.

Notes

Appointment of new board of directors in place of elected board by taking recourse to the unadopted model bye-laws was without jurisdiction. *Eknath Vs. State, 1985 (1) Bom. C.R. 605.*

Rule 13(1).—Can Co-operative Society invoked fundamental rights.—Co-operative Society having a bye-law that only Kanara Saraswat community man can be its members directed by the Registrar to amend the bye-laws deleting community clause. It was contended that society has rights to

1. These words were substituted for the words "or desirable in its interest" by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.
2. These words were substituted for the words "such time as may be specified by him" by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.
3. These words were substituted for the words "specified time" by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.
4. The word "the State" deleted by G.N. CSL-2014/697/C.R. 04/13-C, Dated 30-8-2014.