

Associate member cannot be part of managing committee

There is widespread ignorance among Cooperative Housing Society members all across the state when it comes to the issue of associate members contesting managing committee elections. To set the record right: An associate member is not eligible to be part of a managing committee.

Maharashtra Cooperative Societies Rules, 1961, Rule 56-M that details conditions on nomination of candidate for election. Rule 56-M (1) states that any person may be nominated as a candidate for election to fill a seat, if he is qualified to be chosen to fill that seat under the provision of the Act, these rules and the bye-laws and if his name is entered in the list of voters:

Provided that, in case of joint or associated member only the member whose name stand first in the share certificate shall be eligible to be nominated as candidate for election.

Now, the law is relaxed when it comes to individuals belonging to categories provided under subsection 3 of Section 73 B of the Maharashtra Cooperative Societies Act. Where the seats are reserved on the committee as provided under Section 73B of the Maharashtra Cooperative Societies Act, any individual belonging to the categories provided under sub-section 3 of Section 73B shall be eligible for being nominated as candidate even if his name does not appear on the voters' list.

The provisions in the Maharashtra Cooperative Societies Act and Maharashtra Cooperative Societies Rules clearly state that the nomination of an associate member for election gets disqualified if his name does not appear first in the share certificate and such member cannot contest an election. Maharashtra Cooperative Societies Act's Section 2(19)(b) clearly defines that the associate member, as a member who holds jointly a share of a society with others, but whose name "does not stand first in the share certificate".

As per the Rule 56M of MCS Rules, 1961 and Section 2(19) (b) of MCS Act, 1960, an associate member can only cast his votes and participate in the election process but never become an office bearer in the society, where his name appears as an associate member in the society register.

This further renders the Appendix – 10 A of the model bye-law of Co-operative Housing Societies redundant as Rules 56M prohibits such associate members from being nominated for election. Provision of Appendix – 10 is in direct conflict with Section 56 M of the MCS Rules, 1961, which renders the said appendix ineffective.

As per Section 56-M, any joint holder whose name appears after the first holder in the share certificate – whether he has paid for the flat or not - also stands disqualified to be appointed as an office bearer.

All joint owners, co-owners, associate member, nominal members whose name does not appear first in the share certificate cannot be appointed as office bearers.