

Advisory Committee of Co-operative Societies

Introduced in 2009 Bye Laws

The amendments in Co-operative Housing Society's Bye-Laws include amendments to Bye Laws No. 175, which deals with Redressal of Grievances. As per Bye Laws No. 173 member/s need to give written complaint of grievances to any of the office bearers of the society. These have been again amended by 2013 Bye Laws.

The committee shall take decisions in the next meeting about the complaint/s and the decision shall be conveyed to the member/s within 15 days thereafter. If the complainant member/s are not satisfied by the decision of Managing Committee or if no communication is received by the complainant/s within 15 days, the complainant/s may approach the Competent Authorities depending upon the nature of complaint.

The competent authorities are (A) Registrar, (B) Co-operative Court, (C) Civil Court, (D) Corporation/ Local Authorities, (E) Police, (F) General Body of Society and (G) Federation. The Bye Laws No. 175 enumerates the nature of complaints under the jurisdiction of every Competent Authority. I intend to deal with the same in separate articles some other time.

As per the amendment in Bye Laws No. 175, the General Body is required to constitute an Advisory Committee. The formation and powers of the Advisory Committee shall be decided by the General Body.

The complainant member/s have now to approach such Advisory Committee in case where they are not satisfied with the decision of the Managing Committee or the Managing Committee fails to communicate decision within 15 days.

However, following questions, naturally arise with regard to constitution of the Advisory Committee and its working:-

1. Who can be the members of Advisory Committee?
2. Can a member of the Managing Committee of society be appointed a member of the Advisory Committee?

3. Is it necessary to have some qualification for membership of Advisory Committee?
4. How many members the Advisory Committee may have?
5. What can be term/ tenure of the Advisory Committee?
6. What is the legal liability of the members of the Advisory Committee?
7. Can a professional who is not a member of the society be appointed a member of the Advisory Committee?
8. Is it compulsory to approach the Advisory Committee prior to approaching the Competent Authorities as specified in the Bye Laws No. 175?
9. Can the report of the working of the Advisory Committee form part of report of working of society during the year?
10. Can the members of the Advisory Committee be given some fees or honorarium?
11. Can the documents submitted before the Advisory Committee be produced as evidence in the office of the Competent Authorities as specified in Bye Laws No. 175?
12. Can the Advisory Committee give directions to the Managing Committee?

The answers to the questions put forward above may throw light on some aspects of formation, power and working of Advisory Committee in Co-operative Housing Societies as envisaged by the amendments in Bye Laws no. 175.

I have given my views hereunder about Advisory Committee based on the scheme of the Co-operative Societies Act & Rule, the importance of Bye Laws of a Co-operative Society and the Advisory Committee in General.

- 1) The Advisory Committee may have as its member/s any person who may or may not be the member of society. However **it will be a desirable**, if;
 - a. Members of the Managing Committee are not part of the Advisory Committee.

- b. Advisory Committee has qualified persons as members.
 - c. It has some professional conversant with Co-operative Societies Law as one of the members of the Advisory Committee.
- 2) No specific academic qualification is required to become member of a Managing Committee. However looking to the nature of disputes and the decisions of the Managing Committees in general, lack of knowledge & acting on one's perception are the main reasons for majority of the disputes or differences in Co-operative Societies. It will, therefore, be advisable to have qualified or knowledgeable persons in the Advisory Committee.
 - 3) The decision about the formation and power of Advisory Committee is to be taken by General Body. However the number of members and their selection in Advisory Committee may be based on some criteria such as Number of buildings in the society, Number of wings of the building, Numbers of floors in a building or the educational qualification, experience of an individual etc. **The General Body may decide about such criteria.**
 - 4) No term/tenure is suggested in the amendment. However, depending on various factors as noted above the term/ tenure may be year to year or for longer period.
 - 5) There is no indication of the legal responsibility of the members of Advisory Committee; however its roll being advisory, the only important aspects which have to be kept in mind is that the decisions of the Advisory Committee must be within the provisions of Maharashtra Co-operative societies Act, 1960 Maharashtra Co-operative societies Rules, 1961 and the Bye Laws.

However, I believe the Managing Committee shall have the final say if the decision is not as per the Act, Rule and the Bye laws because ultimately the Managing Committee attracts the provisions of disqualification etc. if it does not act as per the Act, Rule and Bye Laws. No such consequences are specified in the amendments for Advisory Committee members.

- 6) It may be advisable to appoint a professional who knows the law, in Advisory Committee. It may be more assuring to the complainant about the legality of the decision.
- 7) The Advisory Committee does not by any stretch of imagination have any powers of Registrar or the Federal Society. These authorities have authority under Maharashtra Co-operative Societies Act, 1960, Maharashtra Co-operative Societies Rules, 1961 and Bye Laws. **The Advisory Committee is merely an additional forum constituted by General Body of a society having powers as may have been decided by the General Body.** This additional forum may help reduce the number of complainants rushing to other Competent Authorities.
- 8) **The Bye Laws have specifically stated that a complainant member shall approach the Advisory Committee before approaching the Competent Authorities. As such it is binding on every complainant member to complain to the Advisory Committee if the decision of the Managing Committee is not satisfactory or no communication is received by him with in the 15 days.**
- 9) It may be possible for the General Body to decide about the payment of fees or honorarium to the member/s of the Advisory Committee.
- 10) The records of the Advisory Committee regarding any complainant will form part of the records of the society. It must be handed over to the Managing Committee at the specified period as may be decided by the General Body while constituting the Advisory Committee.
- 11) As the records of the Advisory Committee form part of the records of the society the same will be treated the same way as other records for all the provisions of Act, Rule and Bye Laws.
- 12) The roll of the Advisory Committee being largely conciliatory it may ask the Managing Committee to take note of some important aspects on which the Advisory Committee has decided it, which may be very useful advice

rather than a direction to the Managing Committee. However the General Body may confer power on the Advisory Committee to give directions to the Managing Committee in the context of the complaints that may have been received by the Advisory Committee. To that extent the Advisory Committee may be authorised to direct the Managing Committee but in the matters of complaints of the members and not beyond that.

- 13) The working of the Advisory Committee may be part of the report of annual working of the society to be presented before the General Body in the Annual General Meeting. The General Body may decide about this aspect while deciding the formation of the Advisory Committee.
- 14) The concept of having an Advisory Committee is really very good and can be huge success if implemented in right spirit and the Registrar as well as the Federation provide necessary support and guidance to the societies. Eventually, the role of Advisory Committee may be extended to other area of working of society. Over a period of time further amendments may be carried out to make the Advisory Committee more effective. Even guidelines u/s 79-A may be very useful for effective functioning of the Advisory Committee.
- 15) Last but not the least is that the purpose of the Advisory Committee is settlement of maximum disputes arising out of day to day working of the Co-operative Housing Societies. **The General Body should therefore keep this in mind while formulating the Rule and Regulations as well as while constituting the Advisory Committee.**

A lot of other aspects can be added to this note; however the constrain of space does not permit the same. More over this note is meant for Managing Committee and for the members of Co-operative Societies and not for professional persons and therefore other academic aspects may not be of much interest to them.