

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6201 OF 2023

Roshana Sanjay Godse & Anr. ... Petitioners
V/s.
The Divisional Commissioner,
Pune Division, Pune & Ors. ... Respondents

WRIT PETITION NO.6202 OF 2023

Shobha Deepak Badekar ... Petitioner
V/s.
The Divisional Commissioner,
Pune Division, Pune & Ors. ... Respondents

Mr. S.M. Gorwadkar, Senior Advocate, i/by Mr.
Niranjan A. Mogre for the petitioners in
WP/6201/2023.

Mr. Pratap Patil for the petitioner in WP/6202/2023.

Mr. Sanjeev Kadam i/by Mr. Ramdas Hake Patil for the
respondent No.2.

Mrs. R.A Salunkhe, AGP for the State in
WP/6201/2023.

Mr. V.M. Mali, AGP for the State in WP/6202/2023.

**CORAM : AMIT BORKAR &
KAMAL KHATA, JJ.
(VACATION COURT)**

DATED : MAY 12, 2023

P.C.:

1. By the impugned order, the Appellate Authority has set aside the resolution nominating petitioner in Writ Petition No.6202 of 2023 as the member of committee. Undisputedly, the appeal of the respondent No.2 has been allowed without making petitioner party to the appeal. Since, the impugned order passed by the Appellate Authority affects civil rights and has civil consequences, it was necessary that the petitioner in Writ Petition No.6202 of 2023 ought to have been made party.
2. Therefore, on this limited ground, impugned order in both the petitions dated 2nd May 2023 passed by the Divisional Commissioner Pune, Division Pune in municipal Appeal No.NPP/1/SR/01/2023 is set aside. Proceedings are remanded back to the Divisional Commissioner Pune, Division Pune who shall decide the appeal on its own merits.
3. The parties shall appear before the Appellate Authority on 16th May 2023. The Appellate Authority shall permit the appellants to carry out amendment. The petitioner in Writ Petition No.6202 of 2023 waives notice.
4. The respondent No.2, on instructions, states that he be permitted to amend memo of appeal to add grounds.. Leave is also granted to respondent No.2 to add Shobha Deepak Badekar as respondent and other nominated councilor as party to the appeal.
5. The Appellate Authority shall decide the appeal on merits after giving opportunity of hearing to all concerned within two weeks from 16th May 2023.

6. The parties and authorities shall maintain status-quo as on 1st May 2023 for period of two weeks.
7. It is made clear that this Court has not adjudicated on rights of the parties on merits and all contentions on merits are kept open to be adjudicated before the Appellate Authority.
8. The writ petitions stand disposed of. No costs.

(KAMAL KHATA, J.)

(AMIT BORKAR, J.)