

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15748 OF 2022**

Rakesh Kashinath Dege ..Petitioner
Vs.
The Commissioner of Police, Thane & Anr. ...Respondents

**AND
WRIT PETITION NO. 578 OF 2023**

Devdas Sadashiv Shetty ..Petitioner
Vs.
The Commissioner of Police, Thane & Anr. ...Respondents

Ms. Veena Thadhani i/b. Mr. Vishal Thadhani for Petitioners.
Mr. Y. D. Patil, AGP for State.

**CORAM : G.S. KULKARNI, J.
DATE : JANUARY 20, 2023**

P.C.:

1. Heard learned counsel for the petitioners in both the petitions.
2. The basic grievance of the petitioners is that in passing the impugned order dated 28 November, 2022 passed by the Deputy Commissioner of Police, Thane, cancelling Orchestra licence as granted to the petitioners, no opportunity of personal hearing was granted. It is also their contention that no show case notice was issued although in paragraph 8 of the impugned order, there is reference of show cause notice as also reply to the show cause notice.
3. Be that as it may, learned counsel for the petitioners has fairly stated that the petitioners have already filed an appeal against the impugned order on 05 December, 2022. The grievance of the petitioners is that neither the appeal nor the stay application has been heard.

4. Learned counsel for the petitioners has submitted that there is an ex-facie breach of the principles of natural justice as no hearing was granted to the petitioners before the impugned order cancelling the licence was passed. It is her contention that the impugned order is in breach of the settled principles of law as laid down by the Supreme Court in **Raj Restaurant And Anr. vs Municipal Corporation Of Delhi**¹. It is hence her contention that the impugned order be interfered by this Court.

5. Considering the nature of the dispute, in my opinion, as the petitioners have already approached the Appellate Authority in an appeal as also a stay application, it is appropriate that the Appellate Authority itself shall take steps on the stay application and decide the same considering all contentions being urged by the petitioners. As a short issue is involved, the stay application be decided as expeditiously as possible and in any event within a period of two weeks from today.

6. All contentions of the petitioners on the appeal and the stay application are expressly kept open, as also the contentions of the respondents.

7. Disposed of in the above terms. No costs.

8. Let the petitioners appear before the Appellate Authority on **25 January, 2023 at 02.30 p.m.** along with a copy of this order.

9. Parties to act on an authenticated copy of this order.

[G.S. KULKARNI, J.]

1. (1982) 3 SCC 338