

P. V. Rane

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2221 OF 2024

NITIN J MEHTA

...Petitioner

VS

THE MUMBAI MUNICIPAL CORPORATION
OF Gr. MUMBAI & Ors.

...Respondents

AND

WRIT PETITION NO. 2222 OF 2024

RIYAZ AHMED ABDUL RAUF TALUKADAR

...Petitioner

VS

THE MUMBAI MUNICIPAL CORPORATION
OF Gr. MUMBAI & Ors.

...Respondents

AND

WRIT PETITION NO. 2307 OF 2024

RASHIDA HARUN RASHIDA SAYYED SHAIKH

...Petitioner

VS

THE MUMBAI MUNICIPAL CORPORATION
OF Gr. MUMBAI & Ors.

...Respondents

Mr. Kanhaiya S. Yadav, for Petitioners.

Mr. Chaitanya Chavan with Rutuja Bodake i/b. Mr. Komal Punjabi, for MCGM.

Ms. Fatima Lakadawala, AGP for State-WP 2221/24.

Mr. Joymal Ostwal, Additional Govt. Pleader, for State in WP 2222/24, with Ms. Gaurangi Patil, AGP for the State in WP 2307/24.

Mr. Kundan R. Valvi, Asstt. Commissioner present.

Mr. Mandar Chaudhary, Asstt. Engineer present.

Mr. Pratik Salvi, Sub-Engineer & Mr. Dipak Bankar, Junior Engineer present.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.DATE: 3rd JULY 2025.

P.C.

1. These writ petitions under Article 226 of the Constitution of India are filed praying for the similar reliefs. For convenience, we refer to the substantive prayers as made in Writ Petition No.2221 of 2024:

“a. This Honourable Court may be pleased to issue a Writ of Mandamus or a Writ in the nature of a writ of Mandamus or any other Writ, order or direction directing the Respondent No.2 to prepare Supplementary Annexure II by including the name of the Petitioner as per the order annexed to this Petition at **Exhibit-C**.

b. This Honourable Court may be pleased to issue a Writ of Mandamus or a Writ in the nature of a writ of Mandamus or any other Writ, order or direction directing the Respondent Nos.2 to allot Permanent Alternate Accommodation of 305 sq. ft. in lieu of his demolished structure as per the current prevailing rules.”

2. As clearly seen from the prayers, the petitioners are the beneficiaries of the orders passed by the Appellate Authority namely the Additional Collector (Enc. & R.), Western Suburbs, Mumbai, whereby the petitioners have been held to be eligible for allotment of permanent alternate accommodation by including the petitioners' names in Annexure II. The prayer of the petitioners is that the benefit of such order be granted by the MCGM-respondent to the petitioners, as the same is not being complied, these petitions were required to be filed on 11 March 2024.

3. A reply affidavit is filed on behalf of MCGM of Mr.Kiran Digharkar, Assistant Commissioner, P/North Ward dated 9 January 2025 wherein it has been stated that although the order under which the petitioners claim the benefit

was passed on 7 December 2023, as the MCGM has challenged the said order, the benefits of the said order passed by the Appellate Authority, shall be granted to the petitioners subject to the outcome of the appeals. The relevant averments to that effect are made in paragraphs 8 and 9 which read thus:

“8. I further say that the process of making revised Annexure-II will be undertaken by this Respondent subject to any Order as may be passed by the Appellate Authority, in case any appeal is preferred by the aggrieved party before the Appellate Authority i.e. Grievance Redressal Committee. It is submitted that this office of Respondent No.2 had no intention to disregard the Orders passed by Respondent No.3. More so, this office of Respondent No.2 has the highest regards for the orders passed by Respondent No.3 which is an Appellate Authority.

9. Therefore, in view of the aforesaid, the Order dated 7.12.2023 will be implemented subject to any Order that may be passed by the Appellate Authority i.e. Grievance Redressal Committee, in case the aggrieved parties prefer any appeal in accordance with the law.”

4. We find that as on date the order dated 7 December 2023 passed by the Appellate Authority ensures to the benefit of the petitioners and what has been stated in the reply affidavit filed by the MCGM recognizes such entitlement of the petitioners, however, subject to the outcome of the appeal.

5. We are informed by learned Counsel for the Municipal Corporation that belatedly in the month of January 2025 which is almost one year after the orders are passed, appeals have been filed by the Municipal Corporation, before the Grievance Redressal Committee, which are stated to be pending.

6. In the aforesaid circumstances, we are of the opinion that the petitioners be granted the benefits of the orders passed by the appellate authority, however,

subject to the orders which would be passed by the Grievance Redressal Committee in the pending appeals as filed by the MCGM, as the petitioners are already deprived of the benefits for almost one year. We accordingly dispose of the petitions by the following order:

ORDER

- (i) The Competent Officer of the MCGM shall allot the permanent alternate accommodation to the petitioners by offering such tenements from the available tenements. The petitioners can select the tenements from such available tenements. This be undertaken as expeditiously as possible and in any event within a period of two weeks from today.
- (ii) Such allotment order be issued to the petitioner of the tenements as may be selected. This allotment shall be subject to the final orders which would be passed by the Appellate Authority namely the Grievance Redressal Committee.
- (iii) In the event the orders passed by the Grievance Redressal Committee are against the petitioners, the petitioners shall not be entitled to continue with the permanent alternate accommodation tenement as allotted who shall vacate the same and hand over the same to the MCGM. Learned Counsel for the petitioners, on instructions, has stated that the petitioners are agreeable for such course of action and an undertaking to that effect shall be furnished to the Court, to the effect that in the event, such orders are against the petitioners, they shall vacate their permanent alternate accommodation tenements, within a period of one month from the date of the communication of the said order. Let the undertaking be filed in the Court within one week from today and copies of the same be furnished to the Competent Officer of the MCGM as also the Advocates for MCGM.

7. In view of the aforesaid directions, further adjudication of the petitions is not called for.

8. All contentions of the parties in the pending appeals are expressly kept open.
9. The petitions are disposed of in the aforesaid terms. No costs.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)