



Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION (L) NO. 1857 OF 2024**

Satyen Kapadia ...Petitioner  
*Versus*  
The State of Maharashtra Through Government ...Respondents  
Pleader & Ors

**WITH  
WRIT PETITION (L) NO. 2168 OF 2024**

Zoru Bhatena ...Petitioner  
*Versus*  
The State of Maharashtra Through Government ...Respondents  
Pleader & Ors

**WITH  
WRIT PETITION (L) NO. 2400 OF 2024**

Dinshaw Rusi Mehta & Ors ...Petitioners  
*Versus*  
The State of Maharashtra Through Government ...Respondents  
Pleader & Ors

---

**Mr Janak Dwarkadas, Senior Advocate, with Navroz Seerwai,  
Senior Advocate, Dinyar Madon, Senior Advocate, Shyam  
Mehta, Senior Advocate, Sharan Jagtiani, Senior  
Advocate, Kunal Dwarkadas, Rishika Harish, Aditya Bapat,  
Suraj Iyer & Gauri Joshi, i/b Ganesh & Co, for the Petitioner in  
WPL/1857/2024 & WPL/2168/2024.**

SHEPHALI  
SANJAY  
MORMARE

Digitally signed by  
SHEPHALI SANJAY  
MORMARE  
Date: 2024.01.24  
13:22:24 +0530

**Mr Ravi Kadam, Senior Advocate, with Zal Andhyarujina, Senior Advocate, Cyrus Ardeshir & Ziyad Madon, i/b Zain AK Najam-Es-Sani, for the Petitioners in WPL/2400/2024.**

**Dr Birendra Saraf, Advocate General, with PH Kantharia, GP & Jyoti Chavan, Addl. GP, for the Respondent-State in all three matters.**

**Mr Vineet Naik, Senior Advocate, with Sarosh Bharucha, Sameer Tapia & Rohan Marathe, i/b ALMT Legal, for Respondent No. 5 in all three matters.**

**Mr Mukul Rohatgi, Senior Advocate, with Ranjit Thorat, Senior Advocate, Joel Carlos, Pallavi Thakar & Rupali Adhate, i/b Sunil Sonawane, for the Respondent-MCGM.**

**Mr Prashant Gaikwad, Assistant Commissioner (Estates), is present.**

---

**CORAM G.S. Patel &  
Kamal Khata, JJ.**

**DATED: 24th January 2024**

**PC:-**

1. The first of these three Petitions was before us last week. It was moved in urgency. The State Government and the MCGM were served only on that day. We ourselves had not fully seen the papers. We kept the matter today. Even on that day, we were told that a second Petition was in process of filing. But we were not told what second Petition was.

2. There are now three Petitions. One of them is by a member of the Royal Western India Turf Club (“**RWITC**”). All three Petitions are in absolutely identical terms with identical annexures. They relate to an apparent proposal by the State Government or the Municipal Corporation of Greater Mumbai (“**MCGM**”) in regard to some portions of the Race Course land at Mahalaxmi. That is all

that we are prepared to say today. Mr Rohatgi for the MCGM, Dr Saraf for the State Government and possibly, Mr Naik for RWITC all raise a preliminary point. This has nothing to do with the merits of the matters. It is nothing at all to do with the locus properly so called of the Petitioners. It is simply a question of whether these Petitions lie within the roster assignment of this Court.

3. A Division Bench of which one of us (GS Patel J) was a Member with Madhav Jamdar J has previously held in *Vasudev Darra & Ors v Registrar General & Ors*<sup>1</sup> that the Chief Justice is the 'Master of the Roster', which is the well settled legal principle of several centuries' standing. But the Court also held that if a Bench takes a matter outside its assigned roster, it acts without jurisdiction and the resultant order is a nullity. Mr Dwarkadas, Mr Seervai and Mr Kadam for the Petitioners may have a lot to say on whether or not it is a PIL. But the way the word 'Public Interest Litigation' is used in the roster is not necessarily dependant on the interpretation of that expression in judgments. It is more a common understanding relating to the distribution of work between benches.

4. We ourselves are extremely reluctant to even venture to take up a matter which is possibly or even arguably outside our roster. In our view, that way lies only chaos and anarchy in the administration of the affairs of the Court. We must defer to settle principles and to the authority of master of the roster. Judicial discipline demands this.

---

1 2021 SCC OnLine 5514.

5. There is some urgency expressed because it seems that an Extraordinary General Meeting of the RWITC is scheduled to be held on 30th January 2024 but e-voting is to commence from 27th January 2024. We are expressing no view on the merits of that either but only point out that these dates are cited as ground for urgency.

6. We ourselves indicated that we would prefer if an administrative order was obtained assigning the matters to some bench. We ourselves have no objection in taking up the matters immediately and are in fact prepared to take them up as soon as the administrative order is obtained, if necessary even this afternoon or tomorrow morning.

7. We request Ms RC Kale, Master and Assistant Prothonotary, to urgently obtain the necessary administrative directions in regard to all three matters. For the purposes of assisting the Registrar we note that in the third Petition, the Petitioner or Petitioners are members of the RWITC. In the first two Petitions, the Petitioners say that they are rate payers, users of the Race Course area but also say that there is a wider public concern that needs protection. We are setting this out at the broadest level to assist the Registrar in making the necessary submission.

8. Subject to the administrative order being one assigning the matter to this Bench (but not otherwise), we take the liberty of listing the matter first on board tomorrow, 25th January 2024. If the order is obtained earlier, parties are at liberty to mention the matters to have them taken up at 2.30 pm today.

9. On the last occasion, and in the circumstances we have set out above, we expressed the hope that no precipitate action would be taken. None has been taken. We do not see how any action can be taken between today and tomorrow.

**(Kamal Khata, J)**

**(G. S. Patel, J)**