

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 11771 of 2024****FOR APPROVAL AND SIGNATURE:****HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**

=====

Approved for Reporting	Yes	No
		✓

=====

ADVANCE GREENFIELD PVT LTD THROUGH ITS DIRECTOR
SURENDRAKUMAR NETARAM SHARMA

Versus

STATE OF GUJARAT & ANR.

=====

Appearance:

PRATEEK S BHATIA(8629) for the Petitioner(s) No. 1

MR JWALANT VORA, AGP for the Respondent(s) No. 1

NOTICE SERVED for the Respondent(s) No. 2

=====

CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**Date : 23/02/2026****ORAL JUDGMENT**

1. **RULE.** Rule returnable forthwith. Mr. Jwalant Vora, learned AGP waives service of Rule for the respondents.

2. By way of the present petition, petitioner herein has prayed for the following reliefs:

“(7. For the reasons stated hereinabove, and such other as may be advanced at the time of hearing of this Petition, the Petitioner above named, most respectfully prays that:

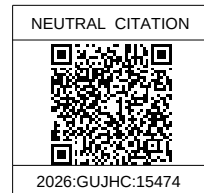


(A) Your Lordships may be pleased to issue a writ of certiorari or writ in the nature of certiorari or any other appropriate writ, order or direction, to quash and set aside the order dated 07.07.2024 having its number as 817/19/02/090/2024 in Application No.21902202401755 (Annexure-A);

(B) Your lordships may be pleased to issue a writ of mandamus or any other writ of appropriate nature, order or direction, directing the Respondent No.2 to grant Certificate under Section 63AA of the Gujarat Tenancy and Agricultural Lands Act, 1948 for land situated at Revenue Survey No.65, Village-Fazalpur (Ankhi), Taluka- Vadodara, Vadodara in the interest of justice; (C) Pending admission, hearing and final disposal of this petition, Your Lordships may be pleased to stay further proceedings of order dated 07.07.2024 having number its as 817/19/02/090/2024 in Application No.21902202401755 (Annexure-A);

(D) Grant such other and further relief(s) as may be deemed fit in the interest of justice and equity.”

3. The brief facts leading to the filing of the present writ petition are that the petitioner purchased the subject land situated at Revenue Survey No.65, Village: Fazalpur (Ankhi), Taluka: Vadodara, Vadodara (herein-after referred to as "the subject land") for industrial purposes under the provisions of Section 63AA of the Gujarat Tenancy and Agricultural Lands Act, 1948. The subject land was originally running in the name of one Maijibhai Manorbhai who sold the subject land to Manibhai Motibhai Patel and the effect of the same was mutated in



the Revenue Records by way of Revenue Entry No.550. Subsequently, Manibhai Motibhai Patel bequested the subject land to his son Patel Pravinbhai Manibhai and the effect of the same was reflected in the revenue records by way of Revenue Entry No.573. Patel Pravinbhai Manibhai sold the subject land to one Kanubhai Bhogilal Desai by way of registered sale deed and the effect of the same was given in the Revenue Records by way of Revenue Entry No.681. Thereafter, based on the family pedigree of Kanubhai Bhogilal Desai the names of his legal heirs were also mutated in the Revenue Records as occupants of the subject land and the effect of the same was reflected in the Revenue Records by way of Revenue Entry No.729. Kanubhai Bhogilal Desai and his legal heirs sold the subject land to one Mahesh Lavjibhai Rathod by way of Registered Sale deed and the effect of the same was mutated in the Revenue Records by way of Revenue Entry No.836. Thereafter, Mahesh Lavjibhai Rathod sold the subject land to one Pradhyuman Nirbhayram Dave and Vibhaben Pradhyuman Dave by way of registered sale deed and the effect of the same was mutated in the Revenue Records by way of Revenue Entry No.838. Upon the death of Pradhyuman Nirbhauram Dave on 04.09.2006 his name was removed from the revenue record and the effect of the same was given in the revenue records by way of Revenue Entry no. 910. Subsequently, Vibhaben Pradhyuman Dave wanted to sell the subject land to the present petitioner, however on account of paucity of time



to execute the sale deed as Vibhaben Dave was to travel out of station and was to remain there for a long time and the petitioner wanted to set up an industrial unit and in order to obtain necessary permission under Section 63AA of the Tenancy Act, Vibhaben Dave executed a power of attorney in favor of Sharmistha Surendrakumar Sharma after paying the necessary stamp duty leviable. Subsequently, the Petitioner purchased the said subject land from Vibhaben Dave through her power of attorney by way of registered sale deed dated 22.01.2020 and the effect of the same was mutated in the Revenue Record by way of Revenue Entry No.1491.

3.1. The Petitioner herein filed application through online E-Portal i.e. Application No. 21902202401755 on 06.04.2024 before the respondent no. 2, Section 63AA of the Tenancy Act for use of the subject land for Industrial purposes. Thereafter, Respondent No.2 passed the impugned order on 07.07.2024 rejecting the application of the Petitioner on the grounds that agricultural certificate of occupants whose names were entered by way of Revenue Entries No.550, 681 and 836 cannot be verified and that based on Revenue Entry No.1491, the name of Sharmistaben was entered in the Revenue record on what basis is not clear and that map of DLR is not produced and therefore the application is required to be dismissed.

4. Mr. Bhatia, learned advocate for the petitioner has submitted



that the impugned order dated 07.07.2024 is wholly arbitrary, mala-fide, and passed without due application of mind, and therefore, deserves to be quashed and set aside. It is submitted that the impugned order is unreasonable and suffer from lack of cogent reasons. It is further contended that the respondent authority has travelled beyond the jurisdiction conferred under Section 63AA of the Act and therefore, the impugned order is without authority of law.

4.1. That the power exercised by the Collector under Section 63AA of the Act is administrative in nature and not quasi-judicial. Consequently, the principle of functus-officio or bar on filing of a fresh application does not apply. That as per Section 63AA(3)(a) of the Act, upon receipt of notice from the purchaser within 30 days of purchase, the Collector is required to hold an inquiry to satisfy himself that the purchase was made for bonafide industrial purposes and thereafter issue a certificate. Rejection of the application de-hors the said provision is, therefore, beyond jurisdiction. The impugned order is thus, unsustainable in law and liable to be quashed and set aside.

5. *Per contra*, Mr. Vora, learned AGP for the respondents submits that the Collector was bound by the statutory provisions and no error has been committed by the Collector, while rejecting the application. Learned AGP submits that the scheme of the Act is that upon an applicant making an application for grant of certificate for bona fide



industrial purpose, the Collector after making an inquiry has to satisfy himself that the purchaser has validly purchased the land for a bona fide industrial purpose in conformity with the provisions of Act. Thereafter, a certificate to such effect can be issued in the form prescribed.

5.1. The learned AGP submitted that if the Collector is not satisfied then after giving an opportunity of being heard, he can refuse certificate to the person in question and the sale of land would be deemed to be in contravention of Section 63AA. Learned AGP relied upon Clause 3d(i) of Section 63AA and submitted that upon refusal to issue a certificate by a Collector, the purchaser may file an appeal to the State Government or such officer as having been authorized by the State Government. Learned AGP would submit that the application of the present petitioner having been rejected, it was incumbent upon the petitioner to have preferred an appeal before the Special Secretary, Revenue Department. Thus learned AGP submits that this Court may not to interfere with the impugned order.

6. Heard the learned advocates for the respective parties and perused the documents on record.

7. Section 63AA of the Bombay Tenancy and Agricultural Lands Act does not confer to the Collector any quasi-judicial power but he exercises an administrative function. Section 63AA enables a person



to purchase or enter into an agreement for sale of agricultural land, notwithstanding the provisions of sub-section (1) of Section 65B of the Bombay Land Revenue Code, 1879, provided that the land is intended to be used for bona-fide industrial purpose. The provision further requires the purchaser to intimate the Collector within 30 days of purchase and furnish relevant particulars, failing which fine can be imposed. Upon receipt of such application the Collector has to satisfy himself that the purchase has been made for bona fide industrial purpose in accordance with the statutory parameters and thereafter, issue a certificate in favor of the purchaser. If the Collector is not satisfied then he can refuse to grant the certificate after affording the purchaser an opportunity of hearing and such a rejection would result in the transaction being treated in contravention of Section 63 of the Act. The statute also provides a right of appeal to the State Government or an officer notified by it, against the Collector's refusal. Therefore, the process under Section 63AA is administrative in nature and does not involve any adjudicatory process or quasi-judicial function.

7.1. Further, if a party whose probable rights may have been affected had not taken appropriate steps at the relevant point of time, the revenue authorities were not required to protect the civil rights of such a person more particularly in absence of any objection or any order by any Court or a Tribunal as the case may be.



7.2. To this Court, it would appear that the revenue authorities had clearly exceeded their jurisdiction in rejecting the application of the petitioner for grant of permission for bona fide industrial use on the ground that there is no details with regard to the share of one of the original owners. In any case, it would appear that the petitioner having given an undertaking, even though the revenue authorities did not have any right to verify the said aspects in proceedings of the present nature, yet, their objection ought to have been clarified by the undertaking by the present petitioner. Thus, it is clear that on one hand the revenue authorities have overstepped their jurisdiction and on the other hand the revenue authorities did not apply their mind to the issue in question.

7.3. Further, rejection of an application on the ground of deficiency or technical defect cannot be termed as an order on merits under Section 63AA of the Tenancy Act. If the rejection is based purely on technical or procedural deficiency then filing of an appeal before the Appellate Authority for removal of the same would be contrary to the provisions of Section 63AA. Thus, an applicant can file a fresh application after removal of deficiencies/ technical objections.

8. In the present case, the impugned order reveals that the appeal preferred by the petitioner has been rejected on the ground of technical deficiencies. In view of the above discussion and reasoning,



the impugned order dated 07.07.2024 passed by the respondent no. 2
– Collector is quashed and set aside.

9. If the petitioner were to prefer a fresh application, the respondent - Collector, Vadodara, to consider and decide the said application afresh, independently and in accordance with law, within a statutory period without being influenced by the earlier order.

10. The writ petition stands **allowed** to the aforesaid extent. Rule is made absolute to the aforesaid extent. No order as to costs.

Direct Service is permitted.

(VAIBHAVI D. NANAVATI,J)

KUMKUM