



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 67 of 2022

FOR APPROVAL AND SIGNATURE:

HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL

and

HONOURABLE MR.JUSTICE D.N.RAY

Approved for Reporting	Yes	No

JANAKSINH KHUSHALSINH PARMAR

Versus

MINISTRY OF CULTURE, GOVT. OF INDIA & ORS.

Appearance:

MR NV GANDHI(1693) for the Applicant(s) No. 1

MS.MAITHILI MEHTA, AGP for the Opponent(s) No. 2

MR ANKIT SHAH(6371) for the Opponent(s) No. 1,4,5

MR DEEP D VYAS(3869) for the Opponent(s) No. 3

MR DM DEVNANI(5880) for the Opponent(s) No. 7

MR. JAY M THAKKAR(6677) for the Opponent(s) No. 6

**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL**

and

HONOURABLE MR.JUSTICE D.N.RAY

Date : 27/02/2026

JUDGMENT

(PER : HONOURABLE MR.JUSTICE D.N.RAY)

1. Heard Mr.N.V.Gandhi, learned advocate for the petitioner and Ms. Maithili D. Mehta, learned Additional Government Pleader for the State, Mr. Ankit Shah, learned advocate for the Respondent Nos. 1, 4 & 5, Mr. Deep D. Vyas, learned advocate for Respondent No. 3, Mr. Jay M. Thakkar,



learned advocate for the Respondent No. 6, and Mr. D. M. Devnani, learned advocate for the Respondent No. 7.

2. The brief facts, necessary to adjudicate the present Public Interest Litigation are as under:-

2.1 The present Public Interest Litigation avers that the “Small Stone Mosque”, also known as “Rani’s Masjid” or “Bawa Ali Shah’s Mosque”, is a monument declared to be of national importance under the Ancient Monuments and Archaeological Sites and Remains Act, 1958. The mosque, situated on the southern bank of the Sabarmati River near village Kochrab, is also referred to as Masjid-e-Nagina. Under Town Planning Scheme No. 3, Paldi, Ahmedabad, Final Plot No. 939 has been allotted to the said protected monument.

2.2 Pursuant to the amendment introduced with effect from 23.01.2010 by the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010, Sections 20A and 20B were incorporated into the parent enactment. In terms of the amended statutory framework, every area extending up to 100 meters from the protected limit of a monument is designated as a “**Prohibited Area**,” wherein



construction activities are strictly barred. The area extending from 100 meters up to 300 meters is classified as a “**Regulated Area,**” within which construction is permissible only upon prior approval and issuance of a No Objection Certificate (NOC) by the competent archaeological authority. Such NOC is stipulated to be non-transferable.

2.3 The dispute pertains to Final Plot No. 996/1/A of Town Planning Scheme No. 3, admeasuring 1020 sq. meters. It is the case of the petitioner that, including location plans and satellite imagery, the said plot is situated at an approximate distance of 65 meters from the protected monument, thereby falling within the Prohibited Area as contemplated under Section 20A of the Act. Revenue records indicate that pursuant to a family arrangement, the said plot came to be allotted to Shri Shrenikbhai Manubhai Shah and Shri Nitinbhai Manubhai Shah. Non-agricultural permission was subsequently granted by the District Collector, Ahmedabad, vide order dated 11.03.2020, and corresponding mutation entries were posted and certified in the record of rights.

2.4 Prior to the grant of such permission, a portion of the land admeasuring 371 sq. meters was conveyed by registered



sale deed dated 01.12.2018 in favour of M/s. Param Con Corp LLP, and the mutation entry was accordingly certified. Thereafter, the remaining parcel admeasuring 649 sq. meters, together with an existing construction of 245.34 sq. meters, was sold by registered sale deed dated 28.03.2019 in favour of subsequent purchasers, and mutation entries were duly recorded. Subsequently, M/s. H.R. Space Con LLP purchased both parcels through two separate registered sale deeds dated 31.03.2021, and corresponding entries were posted in the revenue record.

2.5 It is the case of the petitioner that construction activities are being undertaken on Final Plot No. 996/1/A despite its alleged location within the Prohibited Area. Upon seeking information under the Right to Information Act, the petitioner learned that show-cause notices dated 01.01.2020 and 20.01.2020 had been issued by the Archaeological Department, Vadodara and Ahmedabad, to the then landowners for carrying out construction within the Prohibited Area. It further transpired that a commencement letter dated 22.06.2021 was issued on the basis of an NOC dated 15.12.2020 granted in favour of M/s. Param Con Corp LLP under Rule 12 of the Act. The said NOC, valid for three years, was expressly non-



transferable.

2.6 According to the petitioner, construction is presently being carried out by M/s. H.R. Space Con LLP on the basis of the aforesaid non-transferable NOC. The petitioner submitted representations and objections to the concerned authorities alleging illegality in (i) issuance of NOC within a Prohibited Area, and (ii) continuation of construction by a subsequent purchaser on the strength of a non-transferable approval. In response, by communication dated 01.07.2022, the office of the Superintending Archaeologist informed the petitioner that the site fell within the Regulated Area at a distance of 105 meters from the protected limit.

2.7 Disputing this position, the petitioner addressed further objections and maintains that, based on the location plan and satellite imagery, the subject plot falls within the Prohibited Area and that the construction is being undertaken without lawful authority.

3. In the aforesaid circumstances, the present Public Interest Litigation has been filed with the following prayers:-

*“A) **YOUR LORDSHIPS** may be pleased to issue appropriate writ, order or direction and be pleased to direct the Resp. Nos. 1-5 to remove and/or pulled down illegal construction carried out by Resp. No. 6, Developer/Builder by treating the same to be within the protected area of Small Stone Mosque (રાણી ની મસ્જિદ); **AND***

*B) Pending hearing and final disposal of this petition, **YOUR LORDSHIPS** may be pleased to (a) direct the Resp. Corporation to suspend and/or revoked the construction permission in relation to the F.P. Nos. 996/1/A of T.P. Scheme No. 3, Paldi, Ahmedabad, (b) restrain the Resp. Corporation from granting BU Permission in relation to the construction carried out upon said Final Plot and (c) restrain the Resp.No.6 from creating any third party rights and further direct to maintain status-quo in relation to the construction and title of the disputed building during the pendency and final disposal of this petition; **AND***

*C) **YOUR LORDSHIPS** may be pleased to grant ad-interim relief in terms of Para-C; **AND***

*D) **YOUR LORDSHIPS** may be pleased to pass any other and further order as may be deemed fit in favour of the petitioners.”*

4. Mr. N. V. Gandhi, learned Counsel appearing for and on behalf of the petitioner submits that it will be apparent from the satellite map produced at Page No. ‘29’ of the paper-book that the disputed structure is only 65 meters away from the ancient monument whereas all constructions within 100 meter radius of the said protected monument is completely prohibited. The Archaeological Department could have given the NOC if the construction was between 100 metre and 300 metre from the protected monument. The respondent No.3-AMC

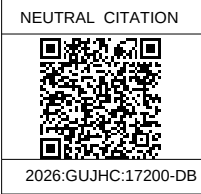


has filed a counter affidavit dated 24.07.2023 wherein, it has been stated that the commencement letter and the Building Use (BU) permission are granted in consonance with the provisions of the Gujarat Provincial Municipal Corporations Act, 1949 read with the provisions of the Comprehensive General Development Control Regulation (CGDCR) and only because the No Objection Certificate has been issued by the Archaeological Survey of India (ASI).

5. The respondent No.1 has filed its affidavit on 28.03.2024 wherein it has been categorically stated in paragraph No. '3.2', 5.1 to 5.4 at Page No. 159 to 161, as under :-

"3.2 It further submitted that that when National Monument Authority (hereinafter referred to as the "NMA") receives the application through the Competent Authority Respondent no. 2, it includes specific recommendation from Respondent No.2 for considering the application for repair, renovation, or construction/re-construction. The recommendation is provided by the Answering Respondent NMA after considering the specific recommendation forwarded by the competent authority Respondent no. 2. In the present matter, Respondent No.2 gave its specific recommendation to Respondent No.1 and after consideration of the specific recommendation, the site inspection report provided by respondent no. 4 and 5.

5.1. I state and submit that respondent no. 1, being a statutory entity, is bound to operate within the confines of the AMASR Act, 1958. Any deviation from the powers and functions prescribed under the statute, would constitute an unauthorized exercise of jurisdiction. It is to note that under the provisions of the AMASR Act, 1958, construction within the Regulated Area of a Centrally Protected Monument is prohibited without the prior recommendation of respondent no. 1.



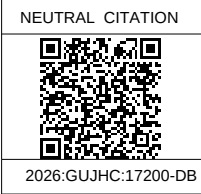
Accordingly, when the application for a No Objection Certificate (NOC) was submitted to respondent no. 1 by respondent no. 2, it is asserted that respondent no. 1 acted in accordance with the law. The permission for grant of no objection certificate was based on the specific recommendation provided by Respondent No. 2, indicating that the property in question falls within the Regulated Area and not the Prohibited Area.

5.2. I state and submit that the Respondent no. 2, forwarded the application of Respondent no.7 on 02.09.2020, and the same was received by Respondent no.1 on 18.09.2020. As per the recommendations, the subject matter property of the Respondent no.7 comes within the Regulated area.

5.3. I state and submit that Respondent no.7 in its application, sought permission for construction up to a height of 22.80 meters, including the mummy, parapet, etc. That Respondent no.1 considered the application for the grant of NOC preferred by Respondent no.2 in its 285th meeting held on 23.10.2020. In the said meeting, after due deliberation and consideration of all records/documents forwarded by Respondent no.2, the application was recommended for the grant of NOC up to a height of 22.80 meters by Respondent no.1 vide letter dated 23.11.2020.

5.4. state and submit that in the Form-II provided by Respondent no.2, there was no indication to reject the application of Respondent no.7; rather, it explicitly recommended the issuance of a No Objection Certificate (NOC). Subsequently, Respondent no.1 assessed the NOC application in accordance with the specific recommendation put forth by Respondent no.2 and the site inspection report of Respondent 4 & 5. Furthermore, it is pertinent to note that Respondent no.1 has specifically recommended the permission for the NOC to Respondent no.7 and not to Respondent no.6."

6. Mr. Jay M.Thakkar, learned Counsel appearing for the respondent No.6 after taking the Court through the affidavit in reply dated 21.04.2024 has categorically submitted that the present PIL is nothing but an abuse of process, inasmuch as, the PIL petitioner is a habitual offender having a criminal



background and has systematically targeted the project launched by the respondent No. 6 namely Exeter-1 as well as Exeter-2. The sole purpose of the petition is to harass and blackmail the respondent No. 6. It has been submitted by Mr. Thakkar that the present petition being a violation of Chapter II of High Court of Gujarat (Practice and Procedure for Public Interest Litigation) Rules, 2010 deserves to be dismissed with exemplary cost. The relevant portion of the affidavit in reply which detailed the antecedents of the PIL petitioner is required to be quoted to understand the degree of impunity with which every conceivable norm for filing the PIL before the writ Court has been violated by the PIL petitioner, as under:-

"4.2 Petitioner has made false averments as well as declaration on oath that petitioner has not filed any other Public Interest Litigation, on the contrary, petitioner had earlier filed one Writ Petition (PIL) No.194/2012. Record reveals that said petition was adjourned for about 17 times and surreptitiously the said petition was not pursued and therefore following order was passed vide dated 27.09.2013;

"None appears for the petitioner when the matter is called out. It appears that the petition has not been even entertained. In such circumstances, we dismiss this Public Interest Litigation for default."

A copy of order dated 27.09.2013 passed in Writ Petition (PIL) No.194/2012 along with a copy of compilation of petition is annexed herewith and marked as Annexure -'R1' (Colly.).

4.3 That petitioner is a habitual offender and is having criminal background which is deliberately not disclosed before this

Hon'ble Court in captioned petition. The criminal background of petitioner is as under,

4.3.1 FIR being I C. R. No.136/2016 registered before Vejalpur Police Station, District: Ahmedabad for the offences punishable under section 384, 386, 387, 388, 389, 506(2) & 120(b) of India Penal Code wherein charge sheet is filed and case is pending before competent court of law. A copy of FIR, a copy of charge sheet counter along with a copy of case status is annexed herewith and marked as Annexure 'R2' (Colly.).

4.3.2 FIR being II C. R. No.3122/2015 registered before Ellisbridge Police Station, District: Ahmedabad for the offences punishable under section 506(2) & 507 as well as under section 40 & 42 of Gujarat Money Lenders Act wherein charge sheet is filed which came to be culminated in Criminal Case No.2200611/2015 before Court of learned Metropolitan Magistrate, Ahmedabad. A copy of FIR, a copy of charge sheet counter along with a copy of case status is annexed herewith and marked as Annexure - 'R3' (Colly.).

4.3.3 FIR being II C. R. No.3022/2015 registered before Paldi Police Station, District: Ahmedabad for the offences punishable under section 294(b), 506(2) & 114 of Indian Penal Code wherein charge sheet is filed which came to be culminated in Criminal Case No.465/2016 before Court of learned Metropolitan Magistrate, Ahmedabad, wherein pending trial, petitioner settled the issue and therefore, petitioner came to be acquitted vide judgment dated 09.02.2016. A copy of FIR, a copy of charge sheet counter along with a copy of judgment dated 09.02.2016 is annexed herewith and marked as Annexure 'R4' (Colly.).

4.4 There is no public interest involved in the petition, rather petitioner is a busy body and captioned petition is filed for extraneous consideration and ulterior motive. Petitioner is involved in may court cases which are procured from online portal and same are not disclosed before this Hon'ble Court, whose details are as under:



<u>Sr. No.</u>	<u>Case No.</u>	<u>Court</u>	<u>Status</u>
1	CC No. 3000202/2016	Add. Chief Metropolitan Magistrate, Ahmedabad	Disposed of on 13.08.2016
2	CRMA No. 4636/2018	Add. Chief Metropolitan Magistrate, Ahmedabad	Disposed of on 07.08.2019
3	CC No. 71703/2019	Add. Chief Metropolitan Magistrate, Ahmedabad	Disposed of on 13.10.2022
4	CC No. 3703237/2014	Add. Chief Metropolitan Magistrate, Ahmedabad	Disposed of on 30.12.2015
5	CC No. 837/2021	Add. Chief Metropolitan Magistrate, Ahmedabad	Pending
6	Civil Suit No. 207/18	City Civil Court	Pending
7	Cri. Enquiry No. 437/2019	Add. Chief Metropolitan Magistrate, Ahmedabad	Disposed of on 30.11.2021
8	SCRA No. 3798/2018	Hon'ble High Court	Disposed of on 09.05.2018
9	Civil Suit No. 1601/2019	City Civil Court	Pending
10	CC No. 3970/2019	Metropolitan Magistrate, Ahmedabad	Pending
11	CC No. 2200611/2015	Metropolitan Magistrate, Ahmedabad	Pending
12	CC No. 465/2016	Metropolitan Magistrate, Ahmedabad	Disposed of on 09.02.2016
13	Civil Suit No. 137/2019	City Civil Court	Disposed of on 05.08.2020



7. Upon perusal of the rejoinder to the reply filed by the respondent No. 6, it will be seen that the PIL petitioner has admitted to virtually every allegation levelled against the petitioner by the respondent No. 6 and has even prayed for an unconditional apology for not disclosing details of filing earlier PIL in violation of Chapter II of the High Court of Gujarat (Practice and Procedure for Public Interest Litigation) Rules, 2010. Further, nowhere in the said rejoinder, has the PIL petitioner denied raising issues against the other project of the respondent No.6, namely Exeter-2. The PIL petitioner has merely tried to justify that some of the criminal cases have been withdrawn-settled.

8. In view of the above undisputed position, this Court is of the firm view that the present petition is nothing but a device to misuse and abuse the process of the Court by unscrupulous elements like the PIL petitioner herein to further his own devious purpose. It is shocking that this Court has been made a party in the nefarious design of the PIL petitioner and it is evident that the petition has been filed in complete desecration of the PIL norms and the rules of this Court. It is, therefore, a fit case to not only dismiss the PIL on merits but also to



impose exemplary costs on the dubious PIL petitioner. The failure, so to do, would itself be a travesty of justice and therefore, it will be in the fitness of things to dismiss the present petition with costs of Rs.10,00,000/- (Rupees Ten Lakhs Only), which shall be deposited by the petitioner within a period of two months from today. The amount so deposited shall be transmitted to the Gujarat State Legal Services Authority and shall be spent in the welfare project for orphan children. Failure to do so will entail recovery of the same from the petitioner as arrears of land revenue.

9. With the above directions, the writ petition is dismissed with costs stated above.

(SUNITA AGARWAL, CJ)

BINA SHAH

(D.N.RAY,J)