

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 1684 of
2025****In F/LETTERS PATENT APPEAL NO. 7545 of 2025**

=====

DISTRICT DEVELOPMENT OFFICER & ORS.

Versus

STATE OF GUJARAT & ORS.

=====

Appearance:

MR PRADIP J PATEL(5896) for the Applicant(s) No. 1,2,3

MS. NIRALI SARDA, AGP for the Respondent(s) No. 1,2

MR MURALI N DEVNANI(1863) for the Respondent(s) No. 3

=====

CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**

and

HONOURABLE MS. JUSTICE NISHA M. THAKORE**Date : 24/03/2025****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)**

1. The present application is filed seeking condonation of delay of 276 days in filing the Letters Patent Appeal.

2. When the matter is taken up for hearing today, learned advocate Mr.Pradip J. Patel, appearing for the applicants-appellants has submitted that though the appellants were ready and willing to comply with the directions issued by this Court, however they were instructed by the Additional Commissioner, Rural Development, Gandhinagar, to file an appeal against the judgment and order passed by the learned Single Judge.

3. We have noticed that before the learned Single Judge, the writ petition was only contested by the present appellants.



4. Learned advocate appearing on behalf of the appellants had categorically made a statement that the present respondents are similarly situated to the employees, who were before the Division Bench in Letters Patent Appeal No.1547 of 2022 in Special Civil Application No.10072 of 2021.

5. The learned Single Judge, by placing reliance on the aforesaid statement and further when the learned counsel appearing for the present appellants was unable to controvert the said fact and on the contrary, it was submitted by him that by the communication dated 29.04.2024, the original respondent No.5-Director of District Rural Development Agency had already submitted a proposal to the respondent – State for grant of benefits and since the Director Accounts and Treasury Department has raised an objection with regard to the approval not being granted by the State, the original respondent No.5 would take appropriate steps for getting approval of the State in this regard.

6. By placing reliance on such statement, the learned Single Judge disposed of the writ petition and it was declared that the respondents are entitled to the benefits of Government Resolution dated 26.10.2015. There is no contest from the respondent No.1 – State of Gujarat, which was represented through the Principal Secretary, Panchayat, Rural Housing and Rural Development Department.

7. Thus, without contesting the writ petition, when the appellants endeavored to implement the directions issued by this Court, the Additional Commissioner directed the appellants to file a Letters Patent Appeal. Thus, the appeal has been filed after delay of 276 days.



8. In our considered opinion, this is a fit case for deprecating the practice followed by the State Department. The respondent-State Department has not applied the mind and simply directed the appellants to file an appeal after a huge delay, and that too at a stage, when the appellants thought of complying with the directions issued by this Court. The communication dated 20.02.2025, written by the Additional Commissioner to the Director, is ordered to be taken on record.

9. It is noticed by us that in number of matters where the State Government is arraigned as a party to the writ proceedings along with the local bodies / authorities, the matter is entirely contested by the local statutory bodies / authorities and no contest is made by the State Government i.e. the main Department under which the local bodies fall.

10. Learned AGP has submitted that in fact, in such matters administratively, the local bodies are entrusted to contest these matters and the State Department, under which the local bodies fall, can, at the most, guide such local statutory bodies / authorities on an issue.

11. We do not endorse such approach of the State Department. The State Department cannot remain a mute spectator in the court proceedings, more particularly, on an issue, which falls within their domain also. The implementing authority would be the local statutory body / authority, which has to seek approval from the State Department under which they fall. It is also noticed by us that after the orders are passed by this Court in the matters where the entire contest has been undertaken on behalf of the local authorities, and



ultimately, when it comes to the compliance of such judgments and orders directed by this Court, when the approval is being sought from the State Government, at that stage, the State Government directs to further challenge such orders, without noticing the aspect of delay. The wisdom on the State Department to assail the judgement and order only prevails, when contempt proceedings are filed.

12. Thus, it is noticed by us that though in the main proceedings, the main Department of the State Government maintains silence and allows the statutory local authorities to contest the writ petition, at the stage of implementation and the time when the approval is sought by such bodies, an objection is raised by the State Government Department without contesting the writ petition.

13. This leads to an anomalous situation between the statutory local authorities and the main State Government Department, which results in multiplicity of litigation resulting into consumption of precious judicial time of this Court.

14. Thus, when a State Department is arraigned as a party to the proceedings along with the statutory local authorities or the other State Sub-Department functions, the State Department cannot watch the proceedings by sitting on the fence by neither filing any affidavits nor making any submissions clarifying its view / stand on the issue. Ultimately, without approval from the State Department, the statutory local authorities cannot grant the benefits as directed by the Courts. The State Government Department in such cases has to clarify its stand before the concerned Court in the proceedings, in which they are arraigned as party and are represented and they cannot simply shift its burden on the statutory local authorities for contesting an



issue. In case the State Department chooses not to context the proceedings, then it cannot refrain the statutory local authorities from implementation of the judgment and orders of the Court by directing them to challenge such orders without involving itself in such proceedings. It is obligatory on the State Department to apprise the Court in the proceedings about the financial implications on such issue, and it cannot take objection at the time of implementation of the directions issued by this Court without contesting the proceedings.

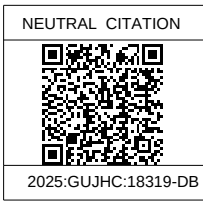
15. This is one such case which highlights the insouciant approach of the State Department. Learned Government Pleader is hereby instructed to bring to the notice to the Heads of all the Departments about the present order so that analogous stand is taken by the local statutory authorities and the State Department and they contests the issue in sync with each other.

16. So far as the present matter is concerned, learned AGP, on instructions, has submitted that the State Government will be passing appropriate orders so that the benefits are granted to the original writ petitioners, subject to their filing of any further applications clarifying the issue.

17. In view of the said order, learned advocate Mr. Pradip Patel does not press the present civil application and the main appeal.

18. The present civil application stands disposed of as not pressed.

19. In view of disposal of the present civil application, the F/Letters Patent Appeal would not survive and the same stands disposed of accordingly.



20. Registry is directed to convey the present order to all the Heads of the State Departments.

Sd/- .
(A. S. SUPEHIA, J)

Sd/- .
(NISHA M. THAKORE,J)

SUYASH SRIVASTAVA/4