

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/MISC. CIVIL APPLICATION (FOR CONTEMPT) NO. 1437 of
2025

=====

HAJRAT JOK ALISHA DARGAH THROUGH ITS TRUSTEE SOLANKI
ARIFBHAI MAHMADBHAI

Versus

DR. OM PRAKASH , MUNICIPAL COMMISSIONER & ANR.

=====

Appearance:

MR MTM HAIM, ADVOCATE for

MR RIZWAN SHAIKH(7146) for the Applicant(s) No. 1

=====

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

and

HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 27/06/2025

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. In the present contempt application, the applicant has alleged willful and deliberate disobedience of the directions issued by the Supreme Court vide order dated 31.01.2018.

2. Learned advocate Mr. Hakim has pointed out that despite the directions issued by the Supreme Court, the Senior Town Planner of the respondent - Nagarpalika issued a notice on 31.01.2025 to the applicant(s) - Hajrat Jok Alisha Dargah, calling upon them to produce necessary documentary evidence about the construction and ownership of the land, failing which, the alleged unauthorized Dargah would be demolished. It is submitted that thereafter, the petitioner replied to the aforesaid notice on 03.02.2025 pointing out the directions issued by the Supreme Court and also requested

that necessary exercise for regularization is required to be undertaken, as per the directions issued by the Supreme Court.

3. The applicant has also questioned the issuance of the notice and it is submitted by the learned advocate Mr.Hakim that the respondent - Nagarpalika was apprised that the notice was without jurisdiction.

4. Learned advocate Mr.Hakim, has submitted that in fact, the Dargah was more than 300 years old and it was registered in the year 1964. It is submitted that thereafter, subsequent notices were also issued and the applicant had accordingly replied to such show-cause notices and ultimately, last show-cause notice was issued on 09.04.2025, which was responded on 15.04.2025. It is submitted that despite the replies given to the aforesaid notices, the respondent - Corporation demolished the Dargah on 17.04.2025.

5. Despite the aforesaid replies, the applicant has also pointed out the relevant circulars to the Senior Town Planner of the respondent - Nagarpalika. He has also referred to the Resolution dated 19.04.2024, which has been issued pursuant to the interim orders passed by the Supreme Court dated 29.09.2009 and 07.12.2009, which mention about the removal, relocation and regularization of the unauthorized constructions carried out in the name of Temple, Church, Mosque or Gurudwara etc.

6. Learned advocate Mr.Hakim has pointed out that as per the Policy of the State Government, the entire exercise is

required to be undertaken by the Committee and the Nodal Officer is also required to be appointed by the Committee to undertake necessary exercise of verification of the disputed structure. However, it is submitted that in the present case, the respondent - Nagarpalika has undertaken the exercise of demolition of Dargah without following the Policy of the State Government and also in contravention to the directions issued by the Supreme Court.

7. We have heard the learned advocate Mr.Hakim, appearing for learned advocate Mr.Razwan Shaikh, for the applicant.

8. The issue with regard to the demolition, regularization of the religious structures on public places, was under deliberation before the Supreme Court. It appears that the Supreme Court, initially passed an order on 29.09.2009 directing that by an interim measure, no unauthorized construction shall be carried out or permitted in the name of Temple, Church, Mosque or Gurudwara etc., on public streets, public parks or other public places. Further directions were issued that the unauthorized construction of the religious nature, which has already been taken place, the State Governments and the Union Territories shall review the same on case to case basis and take appropriate steps as expeditiously as possible. Such directions were conveyed to all the authorities of the country. It appears that thereafter, the final directions issued on 31.01.2018 by the Supreme Court in Special Leave to Appeal (C) No.8519 of 2006, which reads as under : -

"To ensure the implementation of directions issued by this Court, consensus has been arrived at Bar and in our opinion, rightly, that the implementation of the order should be supervised by the concerned High Courts. We, consequently, remit the above matters to the respective High Courts for ensuring implementation of the orders in effective manner.

The to transmitted records be concerned respective High Courts. the The interim orders wherever passed, shall continue, until the matters are considered by the High Court. In case any clarification is required, it would be open to the parties to approach this Court. The High Court will have the jurisdiction to proceed in the Contempt of any of the orders passed by this Court.

Pending applications shall also be transmitted to the High Court."

9. At this stage, we may refer that the State Government introduced a Policy dated 19.04.2024 in light of the orders passed by the Supreme Court dated 29.09.2009 and 07.12.2009. The said Policy or Resolution stipulates the constitution of Committees by the Municipal Commissioner and District Collectors within a period of 10 days. Further, Clause 3 of the Policy refers that there should be an appointment of the Nodal Officers and such Officer(s) by the Committee. Accordingly, such Committee has been conferred power under Clause 4 of the Policy / Resolution dated 19.04.2024, which prescribes various steps. This Resolution specifically mentions three categories i.e. the removal, relocation, regularization of the unauthorized constructions.

10. In the present case, it appears that the Senior Town Planner of the respondent – Nagarpalika initially issued a notice on 31.01.2025 to the applicant for removing the alleged unauthorized Dargah within the area of Gandhi Chowk. The

applicant was also called upon to submit necessary documents about the ownership and the constructions within a period of three days. Accordingly, the applicant replied on 03.02.2025 by pointing out the directions issued by the Supreme Court along with the relevant documents about the ownership and the local authorities were also supplied. Reference was also invited to the proceedings pending before this Court being Special Civil Application No.9686 of 2006. It was also pointed out that the concerned Dargah was registered under the Gujarat State Waqf Board.

11. The necessary entries of the land revenue in the document, in this regard, were also pointed out in the notice. The religious value of the Dargah was also pointed out and it was categorically mentioned that the same was constructed prior to 1947.

12. Thereafter, it appears that further notices were also issued by the Senior Town Planner and the applicant, accordingly, replied to the same. The last notice was issued on 09.04.2025, again calling upon the applicant to remove the disputed structure within a period of 5 days. The applicant replied to the same on 15.04.2025 reiterating the request and pointing out that the Dargah was there since last 300 years, however, on 17.04.2025, the respondents demolished the Dargah.

13. *Prima facie*, at this stage, we are of the opinion that the respondents have acted in defiance of the directions of the Supreme Court and the Policy dated 19.04.2024. Since liberty is reserved in favour of the respective High Courts to proceed

in Contempt if any of the directions issued by the Supreme Court are violated, we deem appropriate to call upon the respondents.

14. Issue **NOTICE** to the respondent Nos.1 and 2 making it returnable on **28.07.2025**.

Direct Service is permitted

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

Sd/-
(R. T. VACHHANI, J)

MAHESH/13