

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 6403 of 2023**

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MAHATMA GANDHI CHARITABLE TRUST
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR ANAND B GOGIA(5849) for the Petitioner(s) No. 1
MS MUSKAN A GOGIA(6624) for the Petitioner(s) No. 1
MR SAHIL TRIVEDI, LD.ASSTT. GOVERNMENT PLEADER for the
Respondent(s) No. 1
DS AFF.NOT FILED (N) for the Respondent(s) No. 1,2
MR HS MUNSHAW(495) for the Respondent(s) No. 3

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CORAM:HONOURABLE MRS. JUSTICE MAUNA M. BHATT

Date : 08/10/2025
ORAL ORDER

1. This petition is filed seeking to declare Draft Town Planning Scheme No.34 (Mavdi), Rajkot sanctioned *vide* Notification dated 31.01.2024, as illegal and unjust qua petitioner's property. Further, prayer with regard to consider petitioner's property not forming part of Draft Town Planning Scheme No.34 (Mavdi), Rajkot, is also made.

2. Heard learned advocate Mr.Anand Gogia for the petitioner, learned Assistant Government Pleader Mr.Sahil Trivedi for respondent No.1 and learned advocate Mr.H.S.Munshaw for respondent No.3.

3. Learned advocate Mr.Anand Gogia for the petitioner submitted that the petitioner herein is a public trust



established in the year 1965 and engaged in imparting education which is one of the object of the trust. Trust has established several Educational Institutions at various levels of Play School, Pre-Primary, Primary, Higher Secondary, as also Colleges of Arts, Commerce and Engineering, etc. For running of Educational Institution, a plot of revenue survey No.194 paiki of Village: Mavdi admeasuring about 10 Acres 00 Guntha = 4470 sq.mtrs. of land was allotted by the State Government vide order dated 17.08.2000 (hereinafter referred to as “subject land”).

3.1 Since the subject land was allotted by State Government to the petitioner for the purpose of establishment of Engineering College, the petitioner after having Development Permission from Respondent-Rajkot Municipal Corporation, constructed the building way back in the year 2018 and since then, the petitioner trust is running Engineering College on the subject land and building. Therefore, possession on land, as also construction done after Development Permission is not in dispute. At present, more than 1100 students are staying in the said Engineering College and the College contains open land/playground, used for carrying out educational seminars, various cultural activities and youth festivals along with general use by students because Engineering College campus



alongside have, other Institutions like Gujarat Technological University, etc.. Therefore, entire plot admeasuring about 4470 sq.mtrs. of revenue survey no.194 paiki of Village: Mavdi, is utilized for educational purposes for more than 12 years.

3.2 Learned advocate Mr.Anand Gogia for the petitioner submitted that thereafter, Rajkot Municipal Corporation declared its intention to frame Draft Town Planning Scheme No.34 (Mavdi) under Section 41 of the Gujarat Town Planning and Urban Development Act, 1976 (for short “Town Planning Act”). After the said intention, procedure was followed by issuance of Public Notice and since open area, which is used by the petitioner trust is forming part of Town Planning Scheme No.34 (Mavdi), the petitioner raised objections upon issuance of Public Notice. Ignoring the objections, Draft Town Planning Scheme No.34 (Mavdi) Rajkot was sanctioned under Section 48 of the Town Planning Act, on 31.01.2024.

3.3 Since the objections were not considered before sanctioning of Draft Town Planning Scheme No.34 (Mavdi), the petitioner raised once again its objections/ representations before Town Planning Authority and as per knowledge of the petitioner, the Scheme is at stage of sending the Preliminary Town Planning Scheme No.34(Mavdi),to the State Government



for its sanction. Learned advocate for the petitioner submitted that if the objections were not considered and the Scheme gets sanctioned by the State Government, entire petition would render infructuous.

3.4 In relation to merits of the matter, learned advocate Mr.Gogia for the petitioner submitted that admittedly, the land forming part of Draft Town Planning Scheme No.34 (Mavdi) is the land belongs to the Trust and part of Engineering Institutions. From the photograph and averments of the petition, it is apparent that the said land is used as ground not only by the students of the Engineering College, but also by the students of Technological Institutions, which is connected with the Engineering College and run by the said Trust. These colleges are using this ground land for their cultural, educational seminars etc. Therefore none consideration of the petitioner's objections before sanctioning of Draft Town Planning Scheme No.34 (Mavdi) is erroneous.

3.5 By placing reliance on the Guidelines, which are at Annexure "O" (Page-73), learned advocate for the petitioner submitted that as per the Government's own Guidelines, for the purpose of implementation of Draft Town Planning Scheme, the land, which are used by the University, School or



as playground, Hospital, religious places, etc. are required to be excluded from deduction. Guidelines further refer that if for any reason, deduction is required, then it may be limited to only 10% of the land in question.

3.6 Learned advocate Mr.Gogia for the petitioner relied upon Clause-7 of Guidelines dated 12.04.2004 and submitted that objections of the petitioner are already forming part of the representation and therefore, appropriate directions may be issued to the Town Planning Officer to consider the objections before sending the said Scheme for its sanction to the State Government.

4. On the other hand, learned Assistant Government Pleader Mr.Sahil Trivedi submitted that it is true that Draft Town Planning Scheme No.34 (Mavdi) was sanctioned by the State Government by Notification dated 31.01.2024. By placing reliance on communication dated 21.12.2024, learned Assistant Government Pleader submitted that as referred in the said communication, the petitioner before sanctioning of Draft Town Planning Scheme No.34 (Mavdi) was provided with the opportunity of hearing by issuance of Notice and accordingly hearing was given. It appears from the communication that hearing took place, and adjournment was sought.



4.1 Further, by relying upon Section 52 of the Town Planning Act read with Rule 26 of the Town Planning Rules, learned AGP submitted that as required under the provisions of the Rules, Town Planning Officer is duty bound to pass reasoned order considering the objections of the petitioner. Therefore, objection/representation made by the petitioner will be considered in accordance with law, as provided under the provisions of the Town Planning Act and the Rules.

5. Considered the submissions. It is evident that on the Subject land the petitioner-trust is running Educational Institution-an engineering college. From the photographs, it is noticed that the land in question is used by the petitioner either as playground or for educational seminars or cultural event or institution's events. Further, admittedly there is a Technological Institution connected with the Engineering College and that Technological Institution also used the same land for its events. In the opinion of this Court, along with the class-room studies, educational seminars and cultural events are also integral part of education. In this case open land is used for that purpose. Moreover, a college without open land is not thought of.



6. At this stage the Government own Guidelines at Annexure “O” (Page-73), cannot be ignored which provides that for as far as possible, no deduction from the open land of the Educational Institutions and in the cases when it is inevitable, deduction to the extent of 10%. Therefore, keeping in mind the above overall aspect of the matter, which is forming part of the representation of the petitioner, following directions are issued:

- (i) Respondent- Town Planning Officer of Town Planning Scheme No.34 (Mavdi) Rajkot is directed to consider the representation/ objections of the petitioner, which has been already given, as provided under Section 52 of the Town Planning Act read with Rule 26 of the Town Planning Rules.
- (ii) If so required, opportunity of hearing shall be provided to the petitioner. The Town Planning Officer is expected to follow the Guidelines of the State Government.
- (iii) The Town Planning Officer shall pass appropriate order in accordance with law before sending the said Scheme for its sanction to the State Government.

7. With this, the present petition is disposed of.

sd/-

(MAUNA M. BHATT,J)

DIPTI PATEL...