

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) (WRIT PETITION (PIL)) NO. 59 of 2024**

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MULCHANDBHAI MOTIBHAI PRAJAPATI

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR VICKY B MEHTA(5422) for the Applicant(s) No. 1

MS HETAL PATEL ASSISTANT GOVERNMENT PLEADER for the Opponent(s)

No. 1,2,4,5,8,9

MR HS MUNSHAW(495) for the Opponent(s) No. 3,6,7

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

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 14/02/2025

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)

Heard Mr. H.S. Munshaw, learned counsel appearing for the respondent nos. 3, 6 and 7 and perused the affidavit dated 12.02.2025 of the District Development Officer, Banaskantha, District Panchayat, Palanpur, wherein the officer though tendered an unconditional apology in not submitting his report in compliance of the orders dated 17.01.2025 and 07.02.2025 passed by this Court, but has not complied with the directions contained therein in their true letter and spirit.

2.1. The assertion in the affidavit is based again on the report submitted by the Taluka Development Officer, whereas by the order dated 17.01.2025 we have categorically recorded the officer to

submit response to the direction issued by the Collector/District Magistrate, Banaskantha in the communication dated 19.11.2024 directing him to take immediate steps under Section 105 of the Gujarat Panchayat Act' 1993 for removal of encroachments over the lands in question which is a 'gauchar' land for grazing the cattle. Till date, the deponent who is posted as the District Development Officer, Banaskantha has not answered the query of the Court demonstrating as to what steps have been taken by him in compliance of the directions issued by the Collector, Banaskantha in the aforesaid communication.

3. We may note that in the last order dated 07.02.2025, in detail we have recorded that the officer posted as District Development Officer is bypassing the issue by referring to different reports submitted by the officers subordinate to it. It was also noted that inspite of our directions in two orders dated 06.12.2024 and 17.01.2025, a cursory report has been submitted by the District Development Officer, wherein apart from submitting the reports of the officers subordinate to him, no report of his own has been submitted.

4. In view of the above, we have issued notice to the officer posted as District Development Officer, Banaskantha District

Panchayat, Palanpur to explain as to why proceedings for deliberate and willful non-compliance of the orders of this Court may not be initiated against him.

4.1. In the affidavit dated 12.02.2025, the officer posted as District Development Officer, seek to submit that a detailed report dated 11.02.2025 had been prepared by him after his visit to the site on 10.02.2025 and verification of the records. In this affidavit, the District Development Officer had again referred to the report of the Taluka Development Officer dated 11.02.2025 wherein it is indicated that there are 22 encroachers over the land bearing Revenue Survey No. 751. However, action if any, been taken against any of the encroachers has not been brought on record. It seems that even notice for removal of encroachments has not been issued to the occupants at the ends of District Development Officer as there is no averments in this regard. The report submitted by the officer appended at page '324' of the paper book which is stated to have been prepared by him on 12.02.2025 is undated.

5. From the aforesaid facts, it is evident that the officer posted as District Development Officer, Banaskantha has no regards for this Court. Inspite of our repeated orders, initially he did not submit any response at all and the response submitted after the order dated

17.01.2025 was cursory, which has led to the issuance of the contempt notice vide order dated 07.02.2025. Still the officer posted as District Development Officer, Banaskantha, District Panchayat, Palanpur has not mend his ways and submitted an undated report to this Court without any proper details with regard to the action taken by him.

6. We, therefore, find it a case of clear non-compliance of the orders of this Court. As the explanation offered by the Officer is to the notice dated 07.02.2025 is not to the satisfaction of the Court, this Court has no option but to frame charges for non-compliance of the orders of this Court.

7. At this stage, Mr. H.S. Munshaw, the learned advocate representing the officer concerned has made a vehement appeal to the Court to grant one last opportunity to the officer concerned to take corrective measures.

As prayed, put up this matter on **21.03.2025** at **12:30 pm**.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

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