

(2013) 01 GUJ CK 0072

In the Gujarat High Court

Case No : Special Civil Application No. 9581 of 2012

Jitendrabhai M. Pandya

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 21-01-2013

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (2013) 01 GUJ CK 0072

Hon'ble Judges : Abhilasha Kumari, J

Bench : Single Bench

Advocate : C.S. Mohanan, for the Appellant; Nisha M. Thakore, Assistant Government Pleader, for the Respondent

Judgement

Abhilasha Kumari, J.

This petition, under Article 226 of the Constitution of India, has been preferred with the following prayers:

(A) this Hon''ble Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus

directing the respondents to allot a residential plot to the petitioner in Survey No. 123, T.P. Scheme No. 5 of Mouje Nanamava, Taluka Rajkot,

or at any other place in Rajkot, considering his application at Annexure-E dated 25-3-2009 received in the office of Respondent No. 2 on 27-3-

2009 or his earlier application at annexure-B dated 18-7-2007;

(B) this Hon''ble Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction under Article 226 of the

Constitution of India, holding and declaring that the action of respondent No. 2 in allotting residential plots to 91 (ninety one) officers/employees as

per the 23 orders passed from 28-7-2009 to 10-5-2011 produced at annexure-G

to the petition, and any such other orders passed till date, is

contrary to the guidelines prescribed by the State Government in Government Resolution dated 28-7-2006 and 22-6-2007 at Annexure-A & A1

and therefore illegal, arbitrary and violative of Article 14 of the Constitution of India;

(C) Pending hearing and final disposal of this petition, this Hon''ble Court may be pleased to direct the respondents to allot a residential plot to the

petitioner in Survey No. 123, T.P. Scheme No. 5 of Mouje Nanamava, Taluka Rajkot, or at any other place in Rajkot, considering his application

at Annexure-E dated 25-3-2009 received in the office of Respondent No. 2 on 27-3-2009 or his earlier application at annexure-A dated 18-7-

2007;

(D) this Hon''ble Court may be pleased to grant such other and further relief as may be deemed just and proper in the matter; and

(E) be pleased to allow this petition with costs.

The main grievance of the petitioner is that the application made by him for allotment of a residential plot at a concessional rate by the State

Government, has not yet been decided.

2. On 08.01.2013 and 15.01.2013, Ms. Nisha M. Thakore, learned Assistant Government Pleader, had been requested to take instructions

regarding the time period during which the Collector, Rajkot, and the State Government would decide the application made by the petitioner.

3. When the matter is taken up today, Ms. Nisha M. Thakore, learned Assistant Government Pleader states, upon written instructions from the

Collector, Rajkot, dated 15.01.2013, that the applications made by the petitioner and other similarly situated persons can be decided within a

period of six months from today. The learned Assistant Government Pleader has tendered a copy of the communication dated 15.01.2013,

addressed to her by the Collector, Rajkot. The learned Assistant Government Pleader has also tendered a copy of the communication dated

19.01.2013, addressed by the Under Secretary, Revenue Department, to her, wherein it is stated that in cases in which the plots are valued at Rs.

50 lakhs and under, a time period of three months would be required by the State Government to take a decision on the proposal that would be

received from the Collector, Rajkot. In cases where the plots are valued above

Rs. 50 lakhs, a period of six months would be required to take a decision. The said communications are taken on the record of the case.

4. Mr. C.S. Mohanan, learned advocate for the petitioner, submits that the petitioner has made his last application in the year 2009, which has still

not been decided by the Collector, therefore, the application may be directed to be decided within a shorter period of time. It is further submitted

that the petitioner is now a member of a Cooperative Society, therefore, his case may be considered expeditiously, in terms of Notification dated

28.07.2006 (Annexure-A). Lastly, it is submitted that the petition may be disposed of, at this stage, by granting liberty to the petitioner to challenge

the orders of the Collector and the State Government, in case they are adverse to the petitioner.

5. Having heard learned counsel for the respective parties and considering the fact that the application of the petitioner has been made in the year

2009, a period of six months, as stated by the learned Assistant Government Pleader, for the decision to be taken by the Collector appears to be

too long a period of time. As no decision has been taken in the case of the petitioner, the following order is passed:

The Collector, Rajkot, shall consider and decide the application of the petitioner in accordance with law, on or before 31.03.2013. Thereafter, the

State Government may take an appropriate decision, in accordance with law, on the proposal forwarded by the Collector, Rajkot. The decision

shall be taken by the State Government within a period of two months from the date of receipt of the proposal by the Collector, Rajkot, if the

value of the plot is Rs. 50 lakhs and below, and within a period of three months, if the value of the plot is above Rs. 50 lakhs.

6. As the Court has not entered into the merits of the matter, the contentions raised by the petitioner in the petition are kept open. In the event that

the petitioner is aggrieved by the orders passed by the Collector and/or the State Government, he is at liberty to challenge the same by way of

appropriate legal proceedings. The petition is disposed of with the above directions. Notice is discharged.