
(2026) 03 GUJ CK 0620

In the Gujarat High Court

Case No : R/SPECIAL CIVIL APPLICATION NO. 4989, 5104, 5104, 5105, 5128, 5129, 5754, 5783, 5801, 5803, 5874, 6053, 6154, 6311, 6399, 6439, 6646, 6736, 6816, 6861, 7122, 9765 of 2025, CIVIL APPLICATION (FOR DIRECTION) NO. 1 of 2026

Minaben Tarunbhai Thakkar

APPELLANT

Vs

State Of Gujarat & Ors

RESPONDENT

Date of Decision : 17-03-2026

Acts Referred:

Constitution Of India, 1950 — Article 226

Gujarat Minor Mineral Concession Rules, 2017 — Rule 76

Citation : (2026) 03 GUJ CK 0620

Hon'ble Judges : Hemant M. Prachchhak, J

Bench : Single Bench

Advocate : Devang Nanavati, Harshadray A Dave, Kruti M Shah, Jay N Shah, Nikunj Kanara, MB Gohil

Final Decision : Disposed Of

Judgement

Hemant M. Prachchhak, J

1. Since common issue is involved in the captioned writ petitions, the same are heard analogously and are being decided by this common judgment.

2. Rule returnable forthwith. Mr. Nikunj Kanara, learned Assistant Government Pleader, waives service of notice of Rule for and on behalf of the respondent Nos.1 to 3 and Mr. M.B. Gohil, learned counsel, waives service of notice of Rule for and on behalf of the respondent No.4.

3. The present petitions are filed under Article 226 of the Constitution of India challenging the show-cause notice dated 26.03.2025 issued by the Geologist, Chhotaudepur as well as the order dated 04.04.2025 passed by the Collector, Chhotaudepur.

4. In view of the fact that Special Civil Application No. 4989 of 2025 is treated as

lead matter, facts mentioned in the said Special Civil Application are considered. It is the case of the petitioner that, the petitioner was granted a mining lease, by executing a lease deed, whereby the petitioner was allotted land admeasuring 2.00 hectores (Non Forest) situated at Survey No. Opposite of 40 and 41 of village Dhokaliya of Taluka Bodeli of District Chhotaudepur on the banks of River Orsang. Accordingly, the petitioner was permitted to mine Ordinary Sand. Such lease was renewed time to time. That, upon introduction of the Gujarat Minor Mineral Concession Rules, 2017 the petitioner had to tender the mining plan to the Respondent Authority for the land and mining lease in question. Such plan could be submitted only after the clearance of various authorities under various statutes. That, after considering the mining plan on the touchstone of the rules and various other regulations and statutes, the Respondent Authorities approved the mining plan of the petitioner vide communication dated 1st January 2023. Accordingly, the Mining Plan came to be approved till 31st March 2025, which is now further extended upto 31st March 2026. That, pursuant to the same, the petitioner continued mining activity at the site allotted to the petitioner, however, the respondent restrained the petitioner from its mining activity for the reasons best known to the respondent, without any notice and thus, the petitioner could not continue with the mining activity as the ATR of the petitioner was locked. That, on the other hand, the respondent issued a hearing notice dated 29th November 2024 to the petitioner calling upon the petitioner for hearing on the date fixed i.e. 12th February 2025, which was fixed on the basis of the communication / instruction received by the respondent from Sardar Sarovar Nigam Limited instructing to see that the excavation does not take place upto 2.5 kms upstream and 5.5 kms downstream from the bridge on the river Orsang. That, upon receipt of such notice, the petitioner approached the respondents vide letter dated 12th December 2024, which is till date not responded to nor any documents are provided by the respondents. That, being aggrieved and dissatisfied by the action of the respondent of illegally locking the ATR and of restraining the petitioner from mining, the petitioner approached this Court by preferring Special Civil Application No. 1524 of 2025. That, during the pendency of the petition, the respondent by communication dated 30th January 2025 and 14th February 2025 fixed the hearing on 20th February 2025. That, on the said date, the petitioner approached the respondents vide letter dated 20th February 2025, replying to the notice, reserving the right to file detailed reply upon supply of the documents sought for by the petitioner in such communication, which is till date not responded to nor any documents are provided by the respondents. That, after considering the contention of the parties this Court directed the respondents to open the online ATR vide its order 24th February 2025. That, despite direction as the respondents did not open the ATR, the petitioner preferred Contempt Petitioner being Misc. Civil Application No. 653 of 2025. Thereafter on 18th March 2025 opened the ATR and permitted the petitioner to carry out the mining activity. That, the respondents vide communication dated 13.03.2025 conveyed to the petitioner that in view of Scouring the SSNL instructed the respondent to see that no mining shall take place 2.5 kms

upstream and 5.5 kms downstream of the Aquaduct. The communication further pointed out that revised district survey report was available on website and further invited comments on the same within 21 days from the date of communication. That, after opening of the ATR and in furtherance of the aforesaid proceedings related to Aquaduct and no mining zone, the petitioner was once again issued a notice dated 26th March 2025 bearing no/. GCU/Aquaduct/lease/2024-25/1971 calling upon the petitioner to assign reason as to why the lease be not cancelled or stalled since it falls within no mining zone, which is challenged by way of a separate petition. That thereafter, immediately on next day the petitioner was served with a notice dated 27th March 2025 bearing No. GCU/QL/EC/2025/1991, whereby the petitioner was called upon to assign reasons as to why the lease be not terminated or stalled. That, both the aforesaid notices are responded by the petitioner by filing a reply with a request to provide relevant documents and pointing out that the proceedings initiated are in breach of principle of Natural Justice as well as in breach of communication dated 13th March 2025, however, the Respondent Authorities, without considering the reply filed by the petitioner and without giving an opportunity of hearing has once again blocked the ATR of the Petitioner.

5. Being aggrieved and dissatisfied with the inaction on the part of the Respondent Authorities, petitioner has preferred this petition.

6. Heard Mr. Devang Nanavati, learned senior counsel assisted by Mr. Harshadray Dave and Ms. Kruti M. Shah, learned counsels appearing for the respective petitioners, Mr. Nikunj Kanara, learned Assistant Government Pleader, appearing on behalf of the respondent Nos.1 to 3 and Mr. M.B. Gohil, learned counsel appearing on behalf of the respondent No.4.

7. Learned senior counsel Mr. Nanavati has submitted that the show-cause notice was required to be issued by the Collector, Chhotaudepur himself instead of that, the show-cause notice is issued by the Geologist, which is contrary to Rule 76 of the Gujarat Minor Mineral Concession Rules, 2017. He has further submitted that DSR approval is also not granted and under such circumstances, learned senior counsel Mr. Nanavati has urged that the show-cause issued by the Geologist, Chhotaudepur as well as the order passed by the Collector, Chhotaudepur are required to be quashed and set aside.

8. On the other hand, learned AGP Mr. Kanara was unable to controvert the settled provisions of law, more particularly, Rule 76 of the Gujarat Minor Mineral Concession Rules, 2017, however, he has submitted that the order was passed by the Collector after hearing the concerned parties but, when the notice is issued by the Geologist, it is not permissible in the eye of law that such notice is to be issued by the Geologist.

9. I have heard the learned counsel appearing for the respective parties and perused the material placed on record. It appears that if the powers are delegated to the Geologist then, notice as well as the order, both are to be

passed by the same authority, instead of that, the notice is issued by the Geologist and the order is passed by the Collector. On perusal of the order passed by the Collector, it appears that no reason was assigned by the Collector, while passing the impugned order and therefore, under such circumstances, I am of the opinion that the impugned notice as well as the order are required to be quashed and set aside and the matters are required to be remanded back to the Collector, Chhotaudepur for fresh consideration of the issue.

10. In the result, the petitions are hereby allowed. The impugned show-cause notice dated 26.03.2025 issued by the Geologist, Chhotaudepur as well as the order dated 04.04.2025 passed by the Collector, Chhotaudepur are hereby quashed and set aside. The matters are remanded back to the Collector, Chhotaudepur for deciding the issue afresh, after giving proper opportunity to all the concerned parties and after issuing notice to the petitioners as well as Sardar Sarovar Narmada Nigam Limited, at whose behest the proceedings have been initiated by the Geologist. The Collector, Chhotaudepur is hereby directed to issue notice to all the concerned parties within a period of three days from the date of receipt of writ of this Order and the Collector shall decide the issue afresh before 30.03.2026. The status quo to be maintained by all the concerned parties, till the issue is decided by the Collector, Chhotaudepur. It is open for all the concerned parties to raise all the contentions available in the eye of law and it is to be agitated before the Collector, Chhotaudepur at the time of hearing. Rule is made absolute.

11. It is observed that this Court has not entered into the merits of the matter and the matters are remanded back to the Collector, Chhotaudepur for deciding the issue afresh.

12. In view of the disposal of the main petitions, all the connected civil applications also stand disposed of.

Direct service is permitted.