

**(2010) 12 GUJ CK 0205**  
**In the Gujarat High Court**

**Case No :** Special Civil Application No. 13307 of 2003

Vanrajsinh Harishchandra Zala

APPELLANT

Vs

Taluka Development Officer and Another

RESPONDENT

**Date of Decision :** 08-12-2010

**Acts Referred:**

**Citation :** (2010) 12 GUJ CK 0205

**Hon'ble Judges :** Akil kureshi, J

**Bench :** Single Bench

**Advocate :** Satyen B. Rawal, for the Appellant; Sejal K. Mandavia, for Respondent 1 and J.K. Shah, AGP for Respondent 2, for the Respondent

**Final Decision :** Dismissed

## **Judgement**

Akil Kureshi, J.—The Petitioner's house was damaged during the earthquake of January 2001. Considering the large scale damage to large number of properties, State Government had formulated a scheme for giving assistance to the victim whose properties were damaged during such earthquake. Petitioner applied for such relief. Surveyor team carried out the survey, placed the area under G-4/B category. Second survey was however, subsequently carried out during which the property was put in category of G-4. It is the case of the Petitioner that relief of Rs. 90,000/- accordingly was sanctioned. Respondents however, released only Rs. 35,000/-. The Petitioner had therefore, approached Lokpal appointed under the decision of this Court in case of Bipinchandra J. Divan and Others Vs. State of Gujarat and Others, Lokpal had also accepted the Petitioner's request and held him entitled to relief of Rs. 90,000/- vide order dated 16.9.2002. This was not paid. The Petitioner is therefore, before this Court.

2. Counsel for the Petitioner submitted that the order of Lokpal was never challenged by the Respondents. Even surveyor assessed the damage at Rs. 90,000/-. Withholding rest of the amount was therefore, illegal.

3. On the other hand, learned Counsel for the Panchayat as well as State

Government relying on the affidavits submitted that as per the Government resolution, in case of partial damage to the property relief to be granted was Rs. 30,000/-. It was only in case of total damage that Rs. 90,000/- could be released. They pointed out that though the Petitioner was advised to pull down the building, he instead repaired the same. He therefore, cannot get the benefit of total damage to the property. They further submitted that no accounts for repairing expenditure have been produced. The Petitioner has also received Rs. 36,000/- from the Respondents. No further amount is payable.

4. Having heard learned Counsel for the parties and having perused the documents on record it can be seen that order dated 16.9.2002 was passed by Lokpal without notice to the Respondents. In any case in the decision in case of Bipinchandra(supra), the Division Bench never gave any adjudicatory powers to the Lokpal for passing binding orders or decree. They were only expected to work as Ombudsman for receiving complaints and for advising the Government and its agencies against the maladministration.

5. Coming to the question of relief paid to the Petitioner, Government Resolution dated 23.2.2001 clearly provided for relief upto maximum of Rs. 30,000/- in case of partial damage to the property where area of construction does not exceed 45 sq. mtrs. Case of the Petitioner was thus covered by the said resolution. Admittedly, entire house was not demolished or pulled down. No further relief can be released in favour of the Petitioner.

6. Petition is therefore, dismissed. Rule is discharged.