IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 3099 of 2010

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NATHAJI JAVANJI THAKORE & ORS.

Versus

STATE OF GUJARAT & ORS.

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Appearance:
MR JIGAR P RAVAL for MR CHIRAG M PANCHAL(5349) for the Petitioner(s) No. 1,1.1,1.2,1.3,1.4,2,3,4,4.1,4.2,5,6
MR RAHUL DAVE AGP for the Respondent(s) No. 1-6
MR AR PATEL(5838) for the Respondent(s) No. 7

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CORAM:**HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**

Date : 05/08/2026

ORAL ORDER

1. By filing present petition under Articles 226 and 227 of the Constitution of India as well as under the provision of the Bombay Land Revenue Code, 1908 and the Rules framed thereunder, the petitioners have challenged the order dated 29.10.2009 passed by the respondent no.2 and the order dated 13.10.2007 passed by the respondent no.3.

2. Heard learned advocate, Mr. Jigar P. Raval assisted by learned advocate, Mr. Chirag Panchal for the petitioners, learned AGP Mr. Rahul Dave for the respondent nos.1 to 6 and learned advocate, Mr. A.R. Patel for the respondent no.7.

3. Learned advocate, Mr. Raval referred to the facts of the case and the documents produced on record and submitted that the private respondent had initiated proceedings against the petitioners

under the provision of the Revenue Code and thereby challenge the order of allotment in favour of the petitioner before the respondent – Collector and pursuant thereto, the petitioners have been served with the notice and pursuant thereto, the petitioners had appeared before the authority on the first date of hearing, which was kept on 30.08.2007, however on that day, hearing could not be taken place as the respondent – Collector was busy in some administrative work, therefore, the matter was adjourned to 11.09.2007 and on that day, the private respondent had submitted his reply and the matter was kept on 09.10.2007 for the reply of the petitioners, however on the next day of hearing i.e. on 09.10.2007, as learned advocate for the petitioners was out of station, a request was made to grant adjournment, which was orally granted, however thereafter, the impugned order came to be passed on 13.10.2007, whereby the respondent – Collector had allowed the appeal preferred by the private respondent, therefore, the petitioners challenged the said order before the respondent – SSRD by filing revision application, wherein all above facts have been categorically pointed out, however without properly appreciating the said facts of the case, the respondent – SSRD rejected the said revision application on merits, therefore, both above orders have been challenged by the petitioners before this Hon'ble Court.

4. Learned advocate, Mr. Raval has taken this Court towards the findings given by the respondent – Collector as well as the respondent – SSRD and submitted that if the Hon'ble Court would make cursory glance upon the orders impugned coupled with the memo of revision application preferred by the petitioners before the respondent – SSRD, in that event, it is found out that the respondent – SSRD has not considered the contentions raised by the petitioners in the memo of revision application and passed impugned orders. He, therefore, submitted that the impugned orders are in gross violation of principle of natural justice in view of the fact that no proper opportunity of hearing was provided to the petitioners, which has resulted into great injustice to the petitioners. He submitted that if the petitioners would have been granted opportunity to defend their case, in that event, they would have produced on record material and evidence as also pointed out correct facts of the case but the material suggests that in haste, the respondent – Collector has passed impugned order, which has been wrongly confirmed by the respondent – SSRD. He submitted that admittedly on 09.10.2007, a request was made for adjournment by the petitioners as their learned advocate was out of station, which was orally accepted and, thereafter, the impugned order allowing the appeal has been passed behind the back of the petitioner only on the basis of the

submissions made earlier. He further submitted that if the Hon'ble Court would make cursory glance upon the order passed by the respondent – SSRD, in that event, it is evident that the respondent – SSRD has considered the merits of the case, however, no specific finding has been given on the aspect of violation of principle of natural justice. He, therefore, submitted that in view of the above facts of the case, the matter may be remanded back before the respondent – Collector to decide the said appeal afresh after providing opportunity to the parties concerned.

5. On the other hand, learned AGP Mr. Dave has objected to the present petition contending that while passing impugned orders, the respondent authorities have taken into consideration all the facts of the case and passed impugned orders, which may not be interfered with as the findings given and conclusion arrived at are just and proper. He, however, is not in a position to dispute about the order passed by the respondent – Collector in absence of learned advocate for the petitioners. He, therefore, submitted that considering the facts of the case, appropriate order may be passed.

6. Learned advocate, Mr. Patel appearing for the respondent no.7 has also opposed the present petition contending inter alia that at the time of passing impugned orders, the respondent authorities have considered all aspects of the

matter and taken into consideration the contentions raised by the petitioners. He, therefore, submitted that the present petition may be rejected.

7. Having heard learned advocates for the parties and having gone through the material available on record, it appears that the private respondent had challenged the order dated 08.08.2006 passed by the respondent – Deputy Collector, whereby the land has been allotted to the petitioners and pursuant to the same, the petitioners have been served with the notice to remain present before the authority and the matter was kept on 30.08.2007, however on that day, the petitioners remained present but because of some administrative work, hearing could not be taken place and the matter was kept on 11.09.2007 and on that day, the reply was submitted by the private respondent, therefore, the matter was kept on 09.10.2007 for the reply of the petitioners and on that date, the petitioners have requested for time on the ground that their advocate is out of station and the request of the petitioners was orally considered and without keeping the matter for hearing and the submissions of the parties, straightway order came to be passed on 13.10.2007, whereby appeal preferred by the private respondent has been allowed and when the said was specifically pin-pointed before the respondent – SSRD at the time of filing revision application,

however, except the said aspect of violation of principle of natural justice, the merits of the matter has been considered by the respondent – SSRD and by impugned impugned order dated 29.10.2009, the said revision application has been allowed, which has resulted into filing of the present petition challenging those orders.

8. Having considered the order of the respondent – Collector, it appears that despite the request of the petitioners for adjournment, observation was made that on 09.10.2007, none of the parties were present, which in my considered opinion can be said to be contrary to the documents produced on record. And though the said aspect has been pointed out before the respondent – SSRD, it has not been properly considered. Thus admittedly, there is gross violation of principle of natural justice as proper opportunity of hearing has not bee provided to the petitioners, who are aggrieved by the impugned orders. Not only that, I have also considered the memo of revision application preferred by the petitioners before the respondent – SSRD and found that there are specific averments with regard to seeking adjournment on 09.10.2007, however, there is no finding on that aspect. However in view of numerous decisions of the Hon'ble Supreme Court as well as this Hon'ble Court, opportunity of hearing is required to be granted to the parties before passing order against them.

9. At this stage, the decision delivered by the Hon'ble Supreme Court in the case of **Alagaapuram R. Mohanraj & Ors., Vs. Tamil Nadu Legislative Assembly Represented by its Secretary & Anr.,** reported in **(2016) 6 SCC 82,** wherein the Hon'ble Supreme Court has observed that if the decision making process is in non compliance of principles of natural justice, violates Article 14 and non supplying of relevant material relied upon for reaching adverse conclusion, having civil or evil consequences itself amounts to violation of principles of natural justice. A reference made of such observations is in Paragraph Nos.44 and 45 of the said decision, which read as under,

"44. The principles of natural justice require that the petitioners ought to have been granted an opportunity to see the video recording. Perhaps they might have had an opportunity to explain why the video recording does not contain any evidence/material for recommending action against all or some of them or to explain that the video recording should have been interpreted differently.

45. The Privileges Committee should have necessarily offered this opportunity, in order to make the process adopted by it compliant with the requirements of Article 14. Petitioner No. 1 in his reply letter to the notice issued by the Privileges Committee seeks permission to give further explanation

when the video recording is provided to him. The Petitioner No. 3 in his reply letter states that he believes his version of his conduct will be proven by the video recording. The other petitioners do not mention the video recording in their reply letters. However, it is not the petitioners burden to request for a copy of the video recording. It is the legal obligation of the Privileges Committee to ensure that a copy of the video recording is supplied to the petitioners in order to satisfy the requirements of the principles of natural justice The failure to supply a copy of the video recording or affording an opportunity to the petitioners to view the video recording relied upon by the committee in our view clearly resulted in the violation of the principles of natural justice i.e. a denial of a reasonable opportunity to meet the case. We, therefore, have no option but to set aside the impugned resolution dated 31.03.2015 passed in the Tamil Nadu Legislative Assembly. The same is accordingly set aside."

10. From the aforesaid proposition, may be under other law, but touching to the principles of natural justice, on that very count, the orders impugned are since being clearly in conflict with the proposition, the same deserve to be quashed, since the petitioners are the aggrieved by the said

order and by the said order, the order of allotment of land in their favour has been quashed and set aside, therefore before passing adverse order against them, opportunity of hearing ought to have been provided, which here in the present case on hand, admittedly not provided. Therefore in my considered opinion, there is clear violation of principle of natural justice, therefore, the matter deserves to be remanded back for fresh consideration by quashing and setting aside the impugned orders, which would meet the ends of justice.

11. In view of the above facts of the case, the present petition stands allowed party. The impugned order dated 29.10.2009 passed by the respondent no.2 and the order dated 13.10.2007 passed by the respondent no.3 are hereby quashed and set aside the matter is remanded back to the respondent no.3 – Collector, Mehsana for deciding the matter afresh after providing ample opportunity to both the parties in accordance with law. It is clarified that this Court has not considered the merits of the case.

12. Rule is made absolute to the aforesaid extent. Direct service is permitted.

Sd/-
(DIVYESH A. JOSHI, J.)

Gautam

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: GAUTAM G PATIL(HC00190), Principal Pvt. Secretary, at High Court of Gujarat on 06/08/2026 18:50:56