

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 962 of 2026****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**

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Approved for Reporting	Yes	No
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LALIT MOHANLAL SHARMA
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MS KRUTI M SHAH WITH MR JAY N SHAH(10668) for the Petitioner(s) No.
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MR ANGESH A PANCHAL, ASST. GOVERNMENT PLEADER for the
Respondent(s) No. 1,2,3,4,5

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**CORAM: HONOURABLE MR. JUSTICE HEMANT M.
PRACHCHHAK**

Date : 23/03/2026**JUDGMENT**

1. Rule returnable forthwith. Learned Assistant Government Pleader Mr. Angesh Panchal, waives service of notice of Rule for and on behalf of the respondents – State Authorities.

2. With the consent of the learned counsel appearing for the respective parties, the petition has been taken up for final hearing today.

3. By way of present petition under Article 226 of the Constitution of India read with the provisions of the Gujarat Mines and Minerals

(Regulations and Development) Act, 1957 (hereinafter be referred to as “the Act”) and under the provisions of the Gujarat Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2017 and under the provisions of the Gujarat Minor Mineral Concession Rules, 2017, petitioner has challenged the ex-parte order dated 03.01.2026 passed by the Geologist (In-charge), Geology and Mining Department, Bharuch and has prayed for the following reliefs :

“(A) Your Lordships may be pleased to issue an appropriate writ, order or direction, for quashing and setting aside the order dated 3.1.2026 (Annexure-H) passed by the Geologist (In-charge), Geology and Mining Department, Bharuch whereby the quarry permit granted to the petitioner has been cancelled before the expiry of 45 days;

(B) Your Lordships may be pleased to issue an appropriate writ, order or direction to hold that the Mines Supervisor does not have jurisdiction to exercise powers under Rule 12(2)(a) of the Gujarat Mineral (Illegal Mining, Transportation and Storage) Rules, 2017 and further be pleased to hold that the seizure procedure undertaken by the Mines Supervisor on 31.12.2025 and 1.1.2026 is without jurisdiction and further be pleased to direct the authorities to immediately release Volvo excavator machine which is seized under seizure memo dated 1.1.2026 (Annexure-E);

(C) Your Lordships may be pleased to issue an appropriate writ, order or direction, directing the respondent Nos.2 and 3 to immediately decide application dated 13.11.2025 for the grant of quarry permit for 1 lakh MT ordinary clay which is annexed at Annexure-B;

(D) Your Lordships may be pleased to issue an appropriate writ, order or direction for quashing and setting aside the notice dated 3.1.2026 (Annexure-F) issued by the Geologist, Bharuch;

(DD) Your Lordships may be pleased to issue appropriate writ, order or direction for quashing and setting aside the order dated 10.02.2026 passed by the Geologist, Geology and Mining Department, Bharuch (Annexure-I-5);

(DDD) Your Lordships may be pleased to issue appropriate writ, order or direction for quashing and setting aside communication dated 11.02.2026 issued by the Geologist, Geology and Mining Department, Bharuch (Annexure-I-6);

(E) Pending admission hearing and final disposal of this petition, Your Lordships may be pleased to stay the further proceedings in pursuance of the notice dated 3.1.2026 (Annexure-F);

(F) Pending admission hearing and final disposal of this petition, Your

Lordships may be pleased to stay the execution, implementation and operation of the notice dated 3.1.2026 (Annexure-F) issued by the Geologist, Bharuch;

(FF) Pending admission hearing and final disposal of this petition, Your Lordships may be pleased to stay the execution, implementation and operation of the order dated 10.02.2026 passed by the Geologist, Geology and Mining Department, Bharuch (Annexure-I-5);

(FFF) Pending admission hearing and final disposal of this petition, Your Lordships may be pleased to stay the execution, implementation and operation of the communication dated 11.02.2026 issued by the Geologist, Geology and Mining Department, Bharuch (Annexure-I-6);

(G) Your Lordships may be pleased to grant any other relief/s which deems fit and proper in the interest of justice."

4. Brief facts giving rise to the present petition are that, the petitioner had applied by Application No.21478 for grant of a quarry permit under Rule 21(1) of the Gujarat Minor Mineral Concession Rules, 2017 for removal of ordinary clay to the tune of 10,000 MT from Survey No.226 of Village: Aladar, Taluka: Vagra, District: Bharuch. That, vide order dated 12.12.2025, the District Geologist (In-charge), Bharuch has granted quarry permit for excavation and removal of matric tonnes of 10,000 ordinary clay and the petitioner had made payment as indicated in the said order and the validity of the permit was for 45 days from the date of activation. That, the petitioner had also made another Application No.21486 on 13.11.2025 for grant of quarry permit for ordinary clay of 1 lakh MT from the very same survey number which was received by the concerned office on 24.11.2025 and the same was pending for its consideration. That, at the time of doing excavation, on 25.12.2025 one underground ONGC pipeline was found out and the petitioner informed the concerned Sarpanch, owner of the land and the inspection officer of ONGC and they had inspected the said place and it was informed to the petitioner that the said line was non-functional since 10 years and he

may continue to do excavation work by leaving that part of the land and the petitioner had continued excavation work ensuring that no damages cause to the said line. That, on 31.12.2025, Mines Supervisor, upon the instructions of Sub Divisional Magistrate and Mamlatdar, Bharuch, had come near the area of the quarry permit and has without jurisdiction and illegally seized 4 vehicles, i.e. GJ-16-AY-2376, GJ-16-AY-8873, GJ-16-AY-0699, GJ-16-AV-3862 and issued notice of seizure under Rule 12(2)(a). That, though the Mines Supervisor does not have jurisdiction under Rule 12(2)(a) to seize the vehicles, seizure was made, the threats were made for criminal proceedings and on the spot, the penalty amount totalling to the tune of Rs.9,15,600/- was forced to be paid by the petitioner. That, again without any notice and without informing the petitioner, upon the letter written by Mamlatdar, Vagra, one inspection team along with panchas, Sarpanch of Aladar village, Circle Officer inspected the area of the quarry permit and the inspection was carried out without following any due procedure of law and without giving any documents whatsoever to the present petitioner and again one seizure memo was drawn by Mines Supervisor under Rule 12(2)(a) and 13 and seized Volvo excavator machine again without authority of law. That, on 03.01.2026, one notice came to be issued by In-charge Geologist by stating that on 01.01.2026 (wrongly stated as 1.1.2025) that the measurement was undertaken by GPS machine and the measurement sheet was prepared and as per the online details, the petitioner has mined 858.97 MT ordinary clay outside the permit area, but as per the measurement sheet, he has mined 5810.17 MT illegally outside the quarry permit area and he was asked to pay the penalty of total Rs.16,33,660/- and he was asked to respond to the said notice within a period of 7 days. That, the petitioner made a representation on 03.01.2026 by stating that he has been targeted and initial permit for

10,000 MT was given after a lot of efforts of 1 month and continuous visit to the office of the Geologist and he has undertaken excavation as per the instructions given from the office of Geologist and though his bulk permit application was pending since long, the same was not decided and he had already informed about ONGC pipeline to the concerned authorities immediately and the entire proceedings are undertaken against him with malice and SDM has misbehaved with him and questioned the procedure of asking the petitioner to pay the penalty of around Rs.10 lakh on the spot and further requested to immediately process his application pending for grant of quarry permit to the tune of 1 lakh MT. That, the petitioner replied notice dated 03.01.2026 on 17.01.2026 asking necessary documents relied upon by the authority seeking to impose penalty to tune of Rs.16,33,660/-. That at present, the proceedings regarding determination of penalty are pending and before that, the impugned order of cancellation of quarry permit is passed. That, the present petition came up for hearing before this Court on 29.01.2026 and after hearing, this Court issued notice upon the respondent authorities making it returnable on 20.02.2026. During the course of the arguments, it was submitted before this Court that the hearing of the notice impugned in the present petition is fixed on 29.01.2026 and it was indicated by this Court to bring to the notice of the authority regarding issuance of notice by this Court in the present matter and on 29.01.2026, the petitioner had presented application dated 29.01.2026 before the Geologist asking time for making submissions in respect of the impugned notice dated 03.01.2026. That, on the very next day on 30.01.2026, the office of the Geologist sent another notice by stating that the documents demanded and not supplied are sent on WhatsApp at 04.59 p.m. on 30.01.2026 and again asked the petitioner to remain present on 04.02.2026. That, after filing of the

petition before this Court, the documents were provided from the office of the Geologist with communication dated 21.01.2026, consisting of Rojkam dated 31.12.2025, statement dated 01.01.2026, Panch Rojkam dated 01.01.2026, seizure form, lease holder issued pass information, map along with the photographs. That, the petitioner had personally remained present before the office of the Geologist on 04.02.2026 by stating to postpone the hearing after 20.02.2026 i.e. the date fixed by this Court in the present petition. That, the writ of this Court of notice in the captioned petition was served upon the Geologist on 03.02.2026. That, in flagrant violation of the principles of natural justice and by completely disregarding the fact of pendency of Special Civil Application No. 962 of 2026, wherein one of the prayers is challenged to the impugned notice dated 03.01.2026, the Geologist has passed order dated 10.02.2026 of imposing penalty of Rs. 16,33,660/-. That, the petitioner received another communication dated 11.02.2026 from the office of the Geologist stating that the petitioner was earlier informed by letter dated 06.01.2025 (it has to be 06.01.2026) to produce No Objection Certificate of ONGC, which the petitioner has not submitted till date and upon submission of No Objection Certificate by ONGC and upon payment of Rs.16,33,660/- as per the show cause notice dated 03.01.2026, the online application no. 21486 dated 13.11.2025 submitted by the petitioner would be further processed. That, the impugned order dated 10.02.2026 and the above communication dated 11.02.2026 were served upon the petitioner on 16.02.2026.

5. Being aggrieved and dissatisfied with the impugned orders dated 03.01.2026 passed by the Geologist, (In-charge), Geology and Mining Department, Bharuch, the petitioner has preferred this petition.

6. Heard Ms. Kruti M. Shah, learned counsel assisted by Mr. Jay N. Shah, learned counsel for the petitioner and Mr. Angesh Panchal, learned Assistant Government Pleader appearing for the respondents – State Authorities.

7. Learned counsel Ms. Shah has submitted that the impugned order passed by the respondent authority is illegal and against the provisions of the Act and the Rules and is passed in gross violation of principles of natural justice and therefore, the same is required to be quashed and set aside. She has submitted that though the present petition was preferred by the petitioner and notice was also issued by this Court vide order dated 29.02.2026 making it returnable on 20.02.2026, which was served upon the office of the Geologist on 03.02.2026 and the office of the Geologist has also received copy of the notice, however, without considering the fact that the matter is pending adjudication before this Court, the respondent authority has passed another order on 10.02.2026 since they had supplied the documents as required by the petitioner on WhatsApp no. 9898046117 on 30.01.2026 at 4.59 p.m. She has submitted that since the matter was pending before this Court, the petitioner could not remain present before the respondent authority on 10.02.2026 and therefore, the respondent authority has passed the order dated 10.02.2026 imposing penalty upon the petitioner, since there was no need to supply any documents to the petitioner. She has further submitted that without considering the fact that the first order passed by the respondent authority on 03.01.2026 was challenged before this Court by way present petition and which is pending adjudication till date, the respondent authority passed another order on 10.02.2026, though the office of the respondent authority was served with the

notice of this Court and thus, the respondent authority has tried to overreach the process of this Court, as the concerned authority was intimated by two communications that the notice impugned is under challenge before this Court and the hearing of the matter is fixed on 20.02.2026 and therefore, the impugned orders passed by the respondent authority are required to be quashed and set aside. Over and above the grounds agitated in the memo of petition, learned counsel Ms. Shah has urged that the present petition be allowed and the impugned orders passed by the respondent authority be quashed and set aside.

8. Today, learned AGP Mr. Angesh Panchal, appearing for the respondent authorities, has tendered affidavit-in-reply filed on behalf of the respondent No.4 and submitted that under the circumstances narrated in the affidavit-in-reply and the documents appended with the same, the impugned order is passed, however, they have not stated anything with regard to the fact that though the petition was pending before this Court and notice was received by the office of the Geologist, why they have proceeded further and on the contrary, the respondent No.4 has tried to explain before this Court referring to paragraphs 18 onwards, more particularly the averments made in paragraphs 24 and 28.

9. I have heard the learned counsel appearing for the respective parties and perused the material placed on record. Considering the submissions canvassed by the learned counsel for the petitioner and considering the facts and circumstances of the case, I am of the opinion that without entering into the merits, the matter is required to be remanded back for deciding the issue afresh.

10. In the result, the present petition is partly allowed. The impugned orders dated 03.01.2026 and 10.02.2026 passed by the Geology and Mining Department, Bharuch are hereby quashed and set aside. The matter is remanded back for deciding the issue afresh not by the same officer but, to be heard by the concerned Collector on the ground of breach of principles of natural justice, after affording an opportunity of hearing to the petitioner and after giving an opportunity to produce all the relevant documents. The same shall be decided as expeditiously as possible, preferably within a period of **8 (eight) weeks** from the date of receipt of writ of this Order, in accordance with law, without being influenced by the earlier orders as well as this Order. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(HEMANT M. PRACHCHHAK,J)

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