

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 1358 of 2023
In
R/SPECIAL CIVIL APPLICATION NO. 13127 of 2020
With
CIVIL APPLICATION (FOR STAY) NO. 3 of 2023
In R/LETTERS PATENT APPEAL NO. 1358 of 2023
With
R/LETTERS PATENT APPEAL NO. 1359 of 2023
In
R/SPECIAL CIVIL APPLICATION NO. 11884 of 2020
With
CIVIL APPLICATION (FOR STAY) NO. 3 of 2023 In R/LETTERS
PATENT APPEAL NO. 1359 of 2023
In
R/SPECIAL CIVIL APPLICATION NO. 11884 of 2020
With
R/LETTERS PATENT APPEAL NO. 1360 of 2023
In
R/SPECIAL CIVIL APPLICATION NO. 11886 of 2020
With
CIVIL APPLICATION (FOR STAY) NO. 3 of 2023 In R/LETTERS
PATENT APPEAL NO. 1360 of 2023
In
R/SPECIAL CIVIL APPLICATION NO. 11886 of 2020
With
R/LETTERS PATENT APPEAL NO. 1361 of 2023
In
R/SPECIAL CIVIL APPLICATION NO. 13057 of 2020
With
CIVIL APPLICATION (FOR STAY) NO. 3 of 2023 In R/LETTERS
PATENT APPEAL NO. 1361 of 2023
In
R/SPECIAL CIVIL APPLICATION NO. 13057 of 2020
With
R/LETTERS PATENT APPEAL NO. 1362 of 2023
In
R/SPECIAL CIVIL APPLICATION NO. 12967 of 2020
With
CIVIL APPLICATION (FOR STAY) NO. 3 of 2023 In R/LETTERS
PATENT APPEAL NO. 1362 of 2023
In
R/SPECIAL CIVIL APPLICATION NO. 12967 of 2020

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HARESH CHANDUBHAI PATEL

Versus

GUJARAT POLLUTION CONTROL BOARD THROUGH REGIONAL
OFFICER

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Appearance:

MS SANGEETA PAHWA, ADVOCATE for
THAKKAR AND PAHWA ADVOCATES(1357) for the Appellant(s) No. 1
MR DG CHAUHAN(218) for the Respondent(s) No. 1
RONAK D CHAUHAN(7709) for the Respondent(s) No. 1
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CORAM: **HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and

HONOURABLE MS. JUSTICE GITA GOPI

Date : 22/04/2025

COMMON ORAL ORDER

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. Learned advocate Mr.D. G. Chauhan, appearing for the respondent No.1, at the outset, has pointed out the averments made in the paragraph No.2 of the affidavit dated 30.01.2024. The same reads as under : -

"2. I respectfully say and submit that during the course of hearing of the petition, on 16.09.2022 the respondent Board agreed to pay Rs.2 lakhs as compensation to each workman. I further say that the learned advocate of the concerned workman suggested to pay Rs.3 lakhs to each workman and accordingly, the learned advocate for the respondent Board agreed to pay Rs.3 lakhs as full and final settlement. The learned advocate for the workman agreed to accept Rs.3 lakhs as full and final settlement. Thereupon, this Hon'ble Court vide order dated 16.09.2022 directed to pay Rs.3 lakhs to each workman. I say that it was the consent order. On 14.11.2022 a cheque for Rs.3 lakhs was offered to each workman but, the appellant - workman for the reasons best known to them, refused to accept the cheque. Annexed hereto and marked as Annexure-A colly. Are the copies of the orders issued by the Board along with cheques. After about 2 and half months, on 30.01.2023, the appellant workman filed this Letters Patent Appeal."

2. Whereas, the learned advocate Ms.Pahwa, has pointed out that in fact, the averments in the aforesaid affidavit are incorrect and it was not a consent order. She has referred to

the affidavit-in-rejoinder dated 24.02.2024. The same reads as under : -

"AFFIDAVIT IN REJOINDER

1. HareshChandubhai Patel, Aged Adult, residing at Post ChandorTalavFaliya, Via Vapi, Village Khuntej, Neva Faliya, Post- Pariya, Taluka-Pardi. District-Valsad, do hereby solemnly affirm and state on oath as under:-

1. I am the appellant in the memo of the appeal. I am fully conversant with the facts and circumstances of the case and duly competent to file this affidavit. I have gone through the affidavit filed by respondent and in response thereto, I am filing this Affidavit-in-Rejoinder.

2. I deny each and every averment made by respondent in its Affidavit except to the extent specifically admitted by me in this Rejoinder Affidavit. My non-dealing with any of the contents/averments may not be treated as an admission on my part. I reserve my right to file such other and further detailed affidavit in case of necessity.

3. I deny that the order dated 16.9.2022 passed by the Ld. Single Judge in SCA 11884 of 2020 and allied matters is a consensual order. A bare perusal of the impugned order passed by Ld. Single Judge does not reflect that the same is a consensual order. I say that neither me nor my advocate had given consent to pass the impugned order nor had agreed to accept Rs.3 Lakh compensation towards full and final settlement. I say that the Ld. Single Judge has passed the impugned order on merits and not on the ground of settlement. I say that I had never agreed to accept compensation in lieu of reinstatement with 15% backwages and therefore, I refused to accept the cheque of Rs. 3 Lakhs towards compensation.

4. I say that in view of what is stated hereinabove as well as in the appeal, I humbly pray this Hon'ble Court to allow this appeal, as prayed for, in the interest of justice."

3. Thus, there is a disputed question with regard to the order passed by the learned Single Judge, which is impugned in the Letters Patent Appeal. The respondents are contending

that in view of the consensus, the amount, as mentioned by the learned Single Judge, is offered to the employees/workmen, however they have refused.

4. We have also noticed that the learned advocate, who had appeared on behalf of the original workmen, was also different. Learned advocate Mr.Chauhan, has asserted before us that learned advocate Ms.Pahwa, had not appeared in the original writ petition and the statement was made by the concerned advocate, who had appeared on behalf of the employees.

5. Under the circumstances, since there is rival claim of the respective parties relating to the order dated 16.09.2022 passed by the learned Single Judge, which is impugned in the present appeals, appropriate remedy, in wake of such disputed statements, is to seek clarification from the learned Single Judge, as to whether the order dated 16.09.2022 was consensual or not.

6. In view of the above, the present Letters Patent Appeal is disposed of. It will be open for either of the parties to file an appropriate application(s) before the learned Single Judge seeking clarification, as to whether the order was consensual or not?

7. It is further clarified that in case, the learned Single Judge is of the opinion that the order was not consensual, it will be open for the appellant to revive the present Letters Patent Appeals by filing an appropriate application(s) before the Registry of this Court.

8. The connected civil applications also stand disposed of accordingly.

9. Registry to place a copy of this order in each of the connected matters.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(GITA GOPI,J)

MAHESH/30-34

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: MAHESH OMPRAKASH BHATI(HC01086), PRIVATE SECRETARY, at High Court of Gujarat on 23/04/2025 12:37:12