

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 1866 of 2025**

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ROHITKUMAR BABULAL SHAH

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR PRADIP K VALERA(13303) for the Petitioner(s) No. 1

MR VIMAL A PUROHIT(5049) for the Petitioner(s) No. 1

GOVERNMENT PLEADER for the Respondent(s) No. 1

MR DEEP D VYAS(3869) for the Respondent(s) No. 2,3

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CORAM:**HONOURABLE MR. JUSTICE NIRAL R. MEHTA****Date : 28/04/2026****ORAL ORDER**

1. In earlier round of litigation, the Coordinate Bench of this Court, on 12.6.2009, passed the following order :

“1. Learned Counsel for the petitioners seek permission to withdraw this petition and also undertake to withdraw the Civil Suit with a view to make representation to the State Government for reviewing the order of 2003 since it is exparte. Permission as prayed for is granted. The petition is disposed of as withdrawn.

2. It will be open for the petitioners to move an appropriate application to the State Government within four weeks from today and the State Government will hear the petitioners, the Municipal Corporation and any other affected party before passing any order.

3. If ultimately the application/representation of the petitioners is accepted and it is not possible for the Municipal Corporation to grant this land, the State Government will also issue appropriate direction to the

Municipal Corporation to give suitable land to the petitioner.

4. It is however made clear that the State Government will decide the matter on merits and deal with each and every contention raised by the parties.

5. Notice discharged. Direct service permitted.”

2. Bare perusal of the aforesaid order would indicate that this Court has, in no uncertain terms, directed the State authorities to decide the application of the petitioner. In case of acceptance thereof, if the land is not possible to be granted, then, consider to allot suitable land to the petitioner in lieu of the land of the petitioner resumed by the Ahmedabad Municipal Corporation.

3. However, while considering the application / representation of the petitioner pursuant to the aforesaid order, the State authorities while passing an order dated 4.9.2018, rejected the application holding, inter alia, that the land which has been claimed by the petitioner is not able to be given as there is already a construction made of a school. It has been further held that even otherwise, the State authorities vide order dated 21.3.2003 already cancelled / suspended the resolution Nos.1017 dated 30.1.2003 and 789 dated 25.2.2003 under the provision of Section 451(1) of the Bombay Provincial Municipal Corporation Act.

4. Having perused the aforesaid, prima facie, it appears that the State authorities have probably not understood the order of the Coordinate Bench of this Court in its letter and

spirit. The Coordinate Bench of this Court while passing an order dated 12.6.2009 categorically permitted the petitioner to approach the Government for reviewing the order dated 21.3.2003 which was ex-parte order. The State authorities, instead of considering the representation, by way of fresh order dated 4.9.2018 reiterated their own action and/or order that was passed in exercise of power under Section 451(3) of the Bombay Provincial Municipal Corporation Act.

5. Thus, before this Court takes any stern view in the matter, let there shall be an opportunity to the State Government to explain the situation by way of an affidavit.

6. Needless to clarify that such an affidavit shall have to be filed by the Principal Secretary, Urban Housing and Urban Development Department, on or before the next date of hearing.

7. List this matter on 4.5.2026.

8. Copy of this order be made available to the learned Assistant Government Pleader for its onward compliance.

(NIRAL R. MEHTA,J)

V.J. SATWARA