

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 2677 of 2025**

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SHREE DAHELI GRAM SARVAJANIK TRUST
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR KM SHETH(838) for the Petitioner(s) No. 1

MR. SNAJAY UDHWANI, ASSISTANT GOVERNMENT PLEADER for the
Respondent(s) No. 1,2

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**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL**

and

HONOURABLE MR. JUSTICE D.N. RAY

Date : 23/09/2025

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)

Having heard the learned advocate Mr. K.M.Sheth appearing for the petitioner and Mr. Sanjay Udhwani, the learned AGP appearing for the respondents State and perused the record, pertinent is to note that under the directions issued by this Court in the present petition, an award dated 20.08.2025 under Section 28A of the Land Acquisition Act, 1894 has been passed by the competent authority. The award records the deduction of TDS from the computed compensation amount.

2. The learned counsel appearing for the petitioner raised objection about the deduction of TDS placing reliance on the Government Resolution dated 28.01.2022. A copy of the said circular is appended at page No. '236' of the paper book and it is the categorical stand of the respondent that as per the said circular before deduction of TDS, a notice was required to be issued to the landholders asking them to furnish the certificate under Section 197 of the Income Tax Act, 1961. The said notice was issued on

30.07.2025 and the response of which was submitted by the petitioner on 01.08.2025 to submit that the TDS cannot be deducted. However, with the response by the communication dated 01.08.2025 which was submitted through an advocate, copy whereof is appended at page No. '242' of the paper book, the certificate under Section 197 of the Income Tax Act, 1961 has not been appended.

3. Mr. Sanjay Udhwani, the learned AGP appearing for the respondent, would submit that no infirmity can be attached to the award dated 20.08.2025 made under Section 28A of the Land Acquisition Act, 1894 by incorporating the factum of deduction of TDS. The submission of the learned AGP is also supported by the decision of the Apex Court in the judgment and order dated 15.09.2017 passed in **Civil Appeal No. 15041 of 2017 (Union of India and Ors. v/s. Hari Singh and Ors.)**, wherein the Apex Court has observed that since the Land Acquisition Collector has already deducted the tax at source and deposited with the Income Tax Department, better course of action for the respondents/landholders would be to approach the concerned assessing authorities and to raise the issue that no tax is payable on the compensation/enhanced compensation, which is received by them as their land was agricultural land.

4. Taking note of the above, once we find that no certificate under Section 197 of the Income Tax Act, 1961 was either submitted before the Land Acquisition Officer in the reply supplied by the petitioner to the notice dated 30.07.2025 through their advocate, nor any such certificate has been brought before this Court, no infirmity can be attached to the deduction of TDS in the

award dated 20.08.2025, which has been issued after serving notice upon the petitioner in accordance with the Government Circular dated 28.01.2022.

5. As regards the delay of four years in making of award under Section 28A, as required to be explained by the respondent pursuant to the order dated 22.08.2025, suffice it to note that explanation offered in the affidavit dated 09.09.2025 of the Special Land Acquisition Officer, Bharuch is to the satisfaction of the Court. There were various pertinent queries raised by the revenue department, when the Special Land Acquisition Officer had forwarded the draft award prepared under Section 28A and these queries put to the petitioners were answered only in the month of August, 2024. Thereafter, some more additional queries were raised with the department and on getting the proper response, the proposed award under Section 28A came to be approved by the revenue department.

6. In view of the above, no further cause of action survives in the present petition. We, therefore, dispose of the present petition with the only observation that the petitioner may approach the competent authority for disbursement of the compensation determined under the award dated 20.08.2025 under Section 28A, which shall be acted upon strictly in accordance with law as expeditiously as possible.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

C.M. JOSHI

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: CHANDRAKANT MAHADEV JOSHI(HC01073), Principal Pvt. Secretary, at High Court of Gujarat on 25/09/2025 16:23:42