

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 3638 of 2026**

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SWETABEN ,WD/O MANOJKUMAR JOSHI

Versus

MODASA MUNICIPALITY & ORS.

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Appearance:

MR HIMANISH J JAPPEE(11295) for the Petitioner(s) No. 1

GOVERNMENT PLEADER for the Respondent(s) No. 3,4,5

MR MUKESH H RATHOD(2432) for the Respondent(s) No. 1,2

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CORAM:**HONOURABLE MR. JUSTICE NIRAL R. MEHTA****Date : 13/08/2026****ORAL ORDER**

1. In the earlier round of litigation, the very petitioner had approached this Court, wherein the Coordinate Bench, while allowing the petition being Special Civil Application No.18834 of 2015, vide judgment dated 26.03.2024, was pleased to observe and direct as under:

"15. In the facts and circumstances of the case, the present petition stands allowed. The petitioner shall make representation within two weeks from the date of receipt of the order. On the basis of the said representation made by the petitioner, the respondent no.1 Municipality shall make appropriate proposal to the State Government and in turn, the State Government shall decide the said proposal within two months from the date of the receipt of the said proposal and appropriate decision shall be taken by the respondent no.3 in light of following the decisions of the Hon'ble Apex Court as well as this Court."

2. Thus, this Court had issued a specific and unequivocal

direction to the State authorities to consider and decide the proposal of the Municipality in relation to the claim of the petitioner, keeping in view the decisions of the Hon'ble Apex Court as well as those of this Court referred to therein. However, the Deputy Commissioner, Municipalities Administration, Gujarat State, vide order dated 30.08.2025, rejected the proposal substantially on the very same grounds on which the earlier proposal had been rejected vide order dated 07.02.2023. What is particularly disconcerting is that, while passing the impugned order, the specific direction issued by this Court to consider the decisions of the Hon'ble Apex Court has not been adverted to or considered at all.

3. In the aforesaid backdrop, in the present proceedings, while issuing notice, the Coordinate Bench of this Court passed the following order on 16.03.2026:

"1.

2. In the meantime, Deputy Commissioner, Municipalities Administration, Gujarat State, Gandhinagar is directed to file reply and state as to how he can consider the grounds which were already taken by the respondents in the first round of litigation which did not weigh with the Court allowing the Special Civil Application No. 18834 of 2025 which was decided on 26.03.2024 by the Co-ordinate Bench of this Court and thereby on the same grounds the petitioner's representation was rejected vide order dated 30.08.2025. Moreover, though the Court has vide judgment dated 26.03.2024 directed the authority to consider the case of the petitioner on the basis of

decisions of the Hon'ble Supreme Court and despite that why the authority has without considering the decisions of the Hon'ble Supreme Court on the same grounds which were not accepted by the Court earlier have rejected the representation made by the petitioner.

3.”

4. Pursuant to the aforesaid order, Ms. Dipti V. Prajapati, Deputy Commissioner, Municipalities Administration, Gujarat State, Gandhinagar, has filed an affidavit-in-reply. In the said affidavit, the learned Deputy Commissioner has referred to various decisions of the Hon'ble Apex Court and has sought to justify and/or supplement the reasons recorded in the impugned order.

5. Be that as it may, at this stage, this Court finds that the impugned order is a glaring manifestation of an arbitrary and high-handed approach on the part of the respondent authorities. The present round of litigation could certainly have been avoided had the authority dealt with the matter with the requisite diligence and due regard to the binding directions issued by this Court. The manner in which the impugned order has been passed, without adverting to or considering the specific directions issued by this Court, has not only compelled the petitioner to once again approach this Court but has also resulted in avoidable consumption of valuable judicial time.

Consequently, the grievance of the petitioner, which has remained pending since the year 2015, continues to remain substantially unaddressed.

6. At this stage, it would be apposite to refer to the decision of the Hon'ble Apex Court in *Mohinder Singh Gill & Anr. v. The Chief Election Commissioner, New Delhi & Ors.*, reported in 1978 1 SCC 405, wherein the Hon'ble Supreme Court has authoritatively held that a statutory authority cannot supplement or improve upon the reasons contained in its order by subsequently filing an affidavit. The relevant observations of the Hon'ble Apex Court read thus:

"The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji :

"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

Orders are not like old wine becoming better as they grow older.

A Caveat."

7. In the facts of the present case, had this been the first occasion on which the authority had failed to properly consider the claim of the petitioner, this Court could have considered the course of quashing the impugned order and remanding the matter to the competent authority for fresh consideration. However, the present case stands on an entirely different footing. This Court, in the earlier round of litigation, had specifically directed the authorities to consider the proposal in the light of the decisions of the Hon'ble Apex Court as well as this Court. Despite such specific and unequivocal directions, the authority has once again proceeded to reject the petitioner's representation on substantially the very same grounds, without demonstrating any consideration of the decisions which this Court had specifically directed it to take into account.

8. Such conduct cannot be regarded as a mere inadvertent omission or an ordinary case of failure to properly appreciate the directions of this Court. The manner in which the impugned order has been passed reflects a disregard of the

specific judicial directions and has resulted in the petitioner being compelled to initiate yet another round of litigation for substantially the same grievance. Such an approach, apart from causing prejudice to the litigant, has occasioned avoidable wastage of valuable judicial time.

9. In the aforesaid circumstances, this Court is of the view that the matter warrants an explanation from the concerned officer. Accordingly, a show-cause notice is hereby directed to be issued to Ms. Dipti V. Prajapati, Deputy Commissioner, Municipalities Administration, Gujarat State, Gandhinagar, irrespective of whether she continues to hold the said post or has been transferred/replaced and is presently serving on any other post in the Department, calling upon her to show cause as to why appropriate costs should not be imposed upon her for the avoidable wastage of judicial time occasioned on account of the manner in which the impugned order has been passed, despite the specific directions issued by this Court in the earlier round of litigation.

List this matter for further consideration on 25.08.2026.

(NIRAL R. MEHTA,J)

MAYA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MAYA SHANKERLAL CHAUHAN(HC01402), PRIVATE SECRETARY, at High Court of Gujarat on 18/08/2026 14:43:25