

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 6494 of 2025**

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NAVIN KANJI KAPDI
Versus
UNION OF INDIA & ORS.

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Appearance:

MR SWAR M KANSAGRA(11320) for the Petitioner(s) No. 1
MR HARSHEEL D SHUKLA(6158) for the Respondent(s) No. 1
MR. KM ANTANI(6547) for the Respondent(s) No. 4
MR MAULIK NANAVALI for NANAVALI & CO.(7105) for the
Respondent(s) No. 2,3

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**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

Date : 07/05/2025

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

1. Heard learned advocate for the petitioner and perused the record.
2. By means of the present petition, the petitioner seeks the following reliefs;

“7. The petitioner, therefore humbly prays that:

[A] This Hon'ble Court may be pleased to admit and allow this petition;

[B] This Hon'ble Court may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction to the

MoEF & CC respondent authorities to enable the petitioner to proceed with the EC application No. SIA/GJ/MIN/53245/2020 under violation category, including submission of EIA/EMP report as annexed as Annexure-G.

[C] This Hon'ble Court may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction and declare the system-generated restriction on parivesh portal based on SOP dated 07.07.2021 being sub judice as illegal and unenforceable as annexed as Annexure-D;

[D] This Hon'ble Court may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction that the petitioner's application be processed to final appraisal stage, with final decision to be kept in abeyance as per Hon'ble Supreme Court's order dated 19.02.2025 in Vanashakti Vs Union Of India (Writ Petition (Civil) No. 1394 of 2023) as annexed as Annexure-K;

[E] Declare that the action of the respondent authorities in withholding or not processing the petitioner's application for EC solely on the ground of the matter being sub judice is arbitrary, illegal, violative of Articles 14 and 19(1)(g) of the Constitution of India, and inconsistent with the doctrine of legitimate expectation and principles of procedural fairness;

[F] This Hon'ble Court may be pleased to grant such other and further reliefs as may be deemed just and proper in the facts and circumstances of the present case may kindly be granted."

3. It is sought to be submitted that the petitioner was granted a mining lease pursuant to a lease deed executed on 01.10.2015. The tenure of lease is for 10 years.

4. As stated in the writ petition, the petitioner was granted environmental clearance on 26.03.2015. However, due to increase in excavation of mineral, the petitioner applied for modification in environmental clearance in Form-1 on 20.05.2020. The contention is that the said application has been made along with requisite documents as per the procedure for filing environmental clearance application under violation. It seems that the Term of Reference was granted by State Environment Impact Assessment Authority, Gujarat vide letter dated 10.02.2021 and pursuant thereto a public hearing was conducted on 29.06.2022.
5. The petitioner herein, in essence is seeking a direction in the nature of mandamus to accept its application in Form-2 for grant of Environment Clearance pursuant to an interim order passed by the Apex Court dated 19.02.2025, wherein it was observed that the application for ex-post-facto clearance which are pending under the Office Memorandum dated 19.02.2021 and 07.07.2021 be processed, but no final approval or clearance shall be granted until further orders of the Apex Court.
6. As per the own contention of the petitioner in the writ petition, the petitioner is unable to upload the environmental clearance application in Form No.2 along with EIA/EMP on account of an interim order dated 02.01.2024 passed by the Apex Court in W.P. (Civil) No. 1394 of 2023 as well as the Office Memorandum dated

28.03.2025 issued by the Government of India, Ministry of Environment, Forest and Climate Change in compliance of the Apex Court's Orders dated 06.01.2025 and 19.02.2025. In the Office Memorandum, it is provided that all the Projects that have applied under the provisions of Office Memorandum dated 07.07.2021 and which were pending as on 02.01.2024 (on the date of the interim order of the Apex Court) may be processed pursuant to the further orders passed by the Apex Court as noted in Para-6 therein. However, final order granting approval/clearance shall not be passed till further orders of the Apex Court.

7. Mr. Maulik Nanavati, learned advocate for the respondent Nos.2 and 3 would submit that the Office Memorandum dated 07.07.2021 and Office Memorandum dated 28.01.2022 were challenged in Writ Petition (C) No. 1394/2023 and the Apex Court passed an order dated 02.01.2024 staying the operation of both these Office Memorandums. Subsequently, the Apex Court by orders dated 06.01.2025 passed in SLP (C) Diary No. 49103 of 2024 (Fathima v. Union of India) and 19.2.2025 passed in Writ Petition (C) No.1394 of 2023, directed that the applications which were pending seeking ex-post facto clearances on the basis of these Office Memorandums shall be processed but no final order granting approval/ clearance shall be passed till further orders. Pursuant to these interim orders of the Apex Court, the Ministry of Environment, Forest and

Climate Change has issued an Office Memorandum, clarifying that all projects that have applied under Office Memorandum dated 07.07.2021 and the applications which are pending on 02.01.2024 be processed.

8. No application of the petitioner was pending as on 02.01.2024. In light of the interim orders of the Apex Court and the Office Memorandum dated 28.03.2025, it is, thus, not possible to accept any fresh application and process the same by respondent No.2. It is further submitted that there is no challenge to the Office Memorandum dated 28.03.2025.

9. In view of the above, prayers as made in the writ petition, cannot be granted. The present petition is dismissed, accordingly. It is, however, open for the petitioner to seek clarification from the Apex Court in the pending matters.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

BIJOY B. PILLAI

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: BIJOY BALAKRISHNA PILLAI(HC00202), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 14/05/2025 09:29:26