

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 12428 of 2025**

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RASHILABEN VINODBHAI PATEL

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR UTPAL M PANCHAL(1075) for the Petitioner(s) No. 1

MR NIKUNJ KANARA AGP for the Respondent(s) No. 1

NOTICE SERVED BY DS for the Respondent(s) No. 1,3

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CORAM:HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE**Date : 09/02/2026****ORAL ORDER**

1. Rule, returnable forthwith. Mr. Nikunj Kanara, learned AGP waives service of rule for the respondents.

2. The present Special Civil Application has been filed praying for the following reliefs:-

“(A) YOUR LORDSHIP may be pleased to issue writ of mandamus or any other appropriate writ, order or direction appointing and treating the petitioner as guardian of her husband Mr. Vinodbhai Chaturbhai Patel and further be pleased to issue appropriate directions to all authorities to treat and accept the petitioner as guardian of her husband Mr. Vinodbhai Chaturbhai Patel and to allow her to operate or manage the movable and immovable properties of her husband Mr. Vinodbhai Chaturbhai Patel;

(B) Pending admission, hearing and final disposal of the present petition, Your Lordships may be pleased to allow the petitioner to operate or manage the movable and immovable properties of her husband Mr. Vinodbhai Chaturbhai Patel;”

3. The brief facts of the petitioner's case is that the petitioner married to one Mr. Vinodbhai Chaturbhai Patel on 16.05.1991 and out of the wedlock, the petitioner has two children i.e. one son and one daughter. The petitioner submits that earlier the husband of the petitioner was very intelligent and was doing the business cleverly and acquired the many immovable properties in the joint name with the petitioner and also invested a considerable amount in stock market in the names of "Vinod C. Patel" and "Vinod C. Patel HUF". Unfortunately, since the year 2020, the mental health of husband of the petitioner has been deteriorating and he was under treatment of Neurologist in Zydus Hospital and he was diagnosed Alzheimer Dementia HTN. Another Neuro Physician was also consulted and he has issued the certificate. The petitioner submits that since last about two years, the husband of the petitioner is completely bedridden and is unable to speak or understand and thus, there is no communication with him. Under the situation, he is mentally and physically impaired and is not in condition to read, sign or write and under the circumstances, he is unable to take care of his properties. Hence, the petitioner is required to act as his guardian so as to safeguard the properties and other interest of his husband Mr. Vinodbhai C. Patel and also to look after his health and her family.

4. That the petitioner submits that her husband Mr. Vinodbhai Chaturbhai Patel has acquired the following properties in the Joint name with the petitioner:-

(1) 31, Sangini Bungalows, Near Sahjanand Bungalows, Thaltej, Ahmedabad.

(2) Flat No.A/14, Aagman Flats, Near Judges Bungalows, Bodakdev, Ahmedabad and

(3) Office premises at A-410, Stellar, Sindhu Bhavan Road, Bodakdev, Ahmedabad.

The petitioner also submits that her husband invested a considerable amount in stock market having Demate Account with M/s. Pravin Ratilal in the names of "Vinod C.Patel and "Vinod C.Patel HUF. It is submitted that the petitioner is required to act as his guardian so as to safeguard the properties and other interest of his husband Mr. Vinodbhai C. Patel and also to look after his health and her family.

5. That this Court had called for the medical report vide order dated 23.12.2025. Today, the learned AGP has produced the communication dated 06.02.2026 addressed to the Collector, Ahmedabad by the Civil Surgeon, Ahmedabad along with the medical report of Mr. Vinodbhai C. Patel. The medical report reads as under:-

"Medical Team Report

Patient named Vinodbhai Chaturbhai Patel aged 65 years has been examined in his house 1701, Seventy, Ambli toad, Ahmedabad in presence of his wife Raseelaben and daughter Sneha on 06 February 2026 11:00 AM onwards by a team of doctors.

As per the opinion of the Neurophysician Following conclusion has been made by the team:

*Patient is symptomatic since last 2015
Started with recent memory loss
Followed by left right disorientation
Followed by calculation difficulty
Followed by Way finding difficulty
Followed by executive dysfunction
Followed by behavioural changes*

*Followed by social disinhibition
Followed by apathy and language difficulty*

*On examination: Patient is bedridden since June 2024
GCS is E4M6V1-moving both lower limbs spontaneously
Not oriented to time/place/person
Motor examination: Increased tone in all 4 limbs-left upper limb contracture Dependent for all activity of daily living since last 2 years*

*Currently, Patient is
In akinetic rigid mute state
Not able to understand and communicate Detailed clinical examination not possible in current condition.*

*Diagnosis:
Functional status: Activity of daily living (ADL) impairment
Clinical Stage: Severe Dementia
Clinical Diagnosis: Probable Alzheimer Disease Dementia*

Past history: Hypertension, Dyslipidemia

*2015:
HIV-ve
VDRL-ve*

*2023:S NMDA: +ve(Supratech)
S. NMDA-ve (Unipath)*

MRI Brain (2019): Mild dilatation of ventricular system, prominence of cerebral sulci, cistern, cerebellar folia, suggest atrophic changes

PET Brain (26/11/2020): Significant hypometabolism Involving posterior cingulate gyrus, bilateral parietal, bilateral temporal cortex and bilateral precuneus associated with hypometabolism in bilateral frontal lobes s/o Alzheimer disease.

MRI Brain (2020): Atrophic changes more marked in bilateral parieto-temporal lobes with corresponding areas of hypometabolism on PET MR s/o Alzhiemer disease."

6. It is, therefore, submitted that the petitioner be appointed as a Guardian of Mr. Vinodbhai C. Patel and further to hold and declare that the petitioner the Manager of all the properties of Mr. Vinodbhai C. Patel.

7. Heard learned advocate for the petitioner and perused the documents on record.

8. From the medical report, it is clear that Mr. Vinodbhai C. Patel is bed ridden and unable to carryout daily activities by himself and needs personal care regularly.

9. That there are various Acts dealing with the appointment of Guardian for the respective purposes. So far as the persons who are incapacitated mentally and physically are concerned, there is no legislative enactment providing for appointment of Guardian and the Court under Article 226 of the Constitution of India exercises the jurisdiction akin to *parens patriae*. The Court has to step in such cases. Various High Courts have dealt with this issue and have held that the Court in its extraordinary jurisdiction under Article 226 of the Constitution of India may act as a *parens patriae* and can pass orders by issuing necessary directions sub-serving the ends of justice. Even this Court in case of *Kumudben Arvindbhai Vadera vs. State of Gujarat - 2020 GLH (4) 507* while accepting the plea of the petitioner has appointed her as a Guardian by incorporating various conditions. In view of the consistent view by various High Courts and also taking into consideration the doctrine of *parens patriae*, this Court is inclined to allow the present writ petition along with necessary directions.

10. In view of the above observations and reasons, the present writ petition is allowed. The petitioner Rashilaben Vinodbhai Patel wife of Mr. Vinodbhai C. Patel is declared as Guardian of patient Mr. Vinodbhai C. Patel and the Manager of the properties mentioned hereinabove belonging to Mr. Vinodbhai C. Patel and the petitioner in joint name. The petitioner having been appointed as a Guardian and Manager is also permitted and authorized to operate the

movable and immovable properties including lands and bank accounts of patient Mr. Vinodbhai C. Patel. In order to ensure that the present order is adhered to and is observed in true letter and spirit, following conditions are imposed:-

“i. The petitioner Guardian shall act always in the best interest of the patient suffering from “comatose state” and shall be responsible for medical care and treatment.

ii. The petitioner Guardian shall file, every three months, a report with the Registrar General, High Court of Gujarat, adverting to the transactions undertaken by the petitioner Guardian in respect of the movable and immovable properties as indicated in the writ petition. Besides, the report shall also indicate the funds, if any, received by the Guardian and their utilization, for the purpose of maintaining the patient.

iii. The Registrar General, High Court of Gujarat, shall cause a separate register to be maintained which shall set out, inter alia, the details of the proceedings, the details of the person appointed as a Guardian and orders, if any, passed after the appointment of the Guardian. Measures shall also be taken by the Registrar General, High Court of Gujarat to preserve the reports filed by the petitioner Guardian from time to time.

iv. It should be ensured that there is no misuse of the power or misappropriation of the funds and if, there is, any, or there is no requisite care and protection or support with regard to the treatment being extended to the patient, it will be open to place the matter for further consideration of this Court and to reopen and revoke the power, to take

appropriate action against the petitioner Guardian. It will be also open for the Court to appoint another person/public authority/Social Welfare Officer as the Guardian.

v. It shall be the duty of the petitioner Guardian to meet the obligations/duties similar to those as described under Section 15 and to maintain and submit the accounts similar to those contained in Section 16 of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities” Act, 1999.

vi. The petitioner Guardian, shall intimate her appointment to the public official/Social Welfare Officer or officer of the equivalent rank designated by the State Government. The petitioner Guardian as well as the Registrar General, High Court of Gujarat, will cause a copy of this order of guardianship being served upon such officer. Such officer, shall visit the person lying in comatose state at least twice in a month and will generate report of his/her visit. If it is found that the petitioner Guardian is not acting in the best interest of the patient lying in comatose state, such officer will be at liberty to file appropriate application before this Court at the earliest, seeking appropriate directions.

vii. The transactions in respect of the movable and immovable properties of the patient by the petitioner Guardian shall be strictly in accordance with the provisions of law. If the petitioner Guardian is found to be abusing the power or neglects or acts contrary to the best interest of the patient lying in comatose state, it will be open to any relative or next friend to apply to this Court for removal of such

Guardian.

viii. In case a relative or a next friend of the patient lying in a comatose state finds that the Guardian is not acting in the best interest of the patient, such person will also have the locus to approach this Court for issuance of appropriate directions and/or for removal of the Guardian.

ix. The petitioner Guardian shall seek and obtain specific permission from this Court, if he/she intends to transfer the patient lying in a comatose state from the jurisdiction of this Court to another State and/or Country, whether it be for availing better treatment or otherwise.

11. It is made clear that this order shall remain operative until the patient, i.e. Mr. Vinodbhai C. Patel remains in comatose state.

12. With the aforesaid directions, the writ petition stands allowed. Rule is made absolute to the aforesaid extent. No order as to costs.

13. Let a copy of this order be circulated to the Registrar General, High Court of Gujarat for information and necessary compliance.

(ANIRUDDHA P. MAYEE, J.)

cmk

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: CHANDRASHEKHAR MAHESHKUMAR KOSHTI(HC01066), Principal Pvt. Secretary, at High Court of Gujarat on 11/02/2026 17:37:07