

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 35 of 2013

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PEOPLE UNION FOR CIVIL LIBERTIES THRO GENERAL SECRETARY &
ORS.

Versus

STATE OF GUJARAT THRO SECRETARY & ORS.

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Appearance:

MR MANOJ SHRIMALI(2331) for the Applicant(s) No. 1,10,11,2,3,4,5,6,7,8,9

MS. HETAL PATEL, AGP for the Opponent(s) No. 1,3,4

MR HS MUNSHAW(495) for the Opponent(s) No. 2

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

and

HONOURABLE MR.JUSTICE D.N.RAY

Date : 02/09/2026

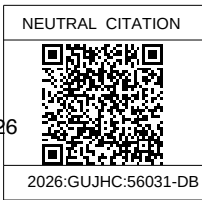
ORAL JUDGMENT

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

1. The present Public Interest Litigation has been filed by 11 persons seeking to agitate the cause of 164 persons whose names are indicated in the list appended as Annexure 'A' to the writ petition in two parts, namely part 1 and part 2.

2. The petitioners herein are enjoying an interim order of this Court for more than a period of 12 years while occupying Survey No. 769 in the periphery of Aslali Lake, situated in Taluka Daskroi, District Ahmedabad.

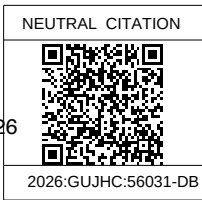
3. By means of the order dated 04.02.2026, this Court, while noticing that the existing huts/residential units



constructed by petitioners are illegal encroachment over the Government land, has issued directions that the District Collector shall constitute a committee comprising of officials of the Revenue Department/local administration to examine the claims of the petitioners of belonging to labour class/poor strata of society and whether they are entitled for rehabilitation under the prevalent Government policy, such as the policy of rehabilitation of the slum dwellers.

4. The occupants of the hutment/residential units constructed over the land in question were required to produce documents establishing their identity and employment, such as Aadhaar card along with all necessary documents, namely ration card, voter ID, water and electricity bills, if any, to establish that they are the original occupants of the land in question. Each of the hutment dweller was directed to file these documents along with their individual applications with the prayer to seek rehabilitation.

5. On such applications being filed before the Committee so constituted by the Collector, direction was issued to inquire



into the claims of each of the hutment dweller/occupant and to decide the same by passing a reasoned and speaking order strictly in accordance with law.

6. It is brought before us that pursuant to the order dated 04.02.2026, a site inspection of Survey No.769 (periphery of the Aslali Lake) was conducted in the presence of the committee members and 134 encroachers residing in semi-permanent and temporary shelters were found on the spot. They were apprised of the proceedings and directed to produce the proof of their residence along with the necessary documents as directed by this Court.

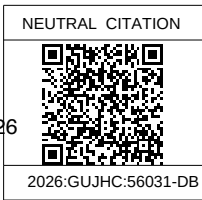
7. The notices were served personally upon 134 encroachers by the Talati-cum-Mantri, who were directed to remain present in the proceedings, hearing of which started from 29.04.2026. Along with the affidavit of the Mamlatdar filed in compliance of the order dated 15.04.2026, it was brought on record that 178 occupants were granted personal hearing by the Chairman and Member Secretary of the Inquiry Committee on the scheduled dates individually,



wherein they produced their respective documents, and the Committee proceeded to inquire their claim of being eligible for rehabilitation under the prevailing policy.

8. Taking note of the fact that when 134 encroachers were found on the spot during the visit by the Inquiry Committee, how 178 occupants were permitted to participate in the hearing, we posted the matter for filing a personal affidavit of the Collector to bring the decision taken in the matter of removal of encroachment, if any, and rehabilitation of the occupants, if required, in accordance with law.

9. Along with the affidavit of the Collector dated 20.07.2026, it is brought on record that out of 164 petitioners whose individual claims were adjudicated, a total of 54 petitioners have been verified as belonging to the marginalized labour class and are actively residing at the site. For the remaining petitioners, primary burden of proof has not been discharged and it remains unestablished that they belong to the labour class or are genuine residents of the subject locality. The individual cases of each of 164



petitioners has been decided by passing a reasoned and speaking order as stated in the affidavit of the Collector.

10. It is further submitted that since the occupants of Survey No.769 (periphery of Aslali Lake) cannot seek rehabilitation as they are encroachers on public water bodies and that none of the housing schemes would be available to them as they do not satisfy the eligibility criteria prescribed therein.

11. It is also submitted in the said affidavit of the Collector that Survey No. 769 at Mouje Aslali, Taluka Daskroi, is recorded in the Revenue record as Kharaba Talav (wasteland, lake/pond), as is clear from the extract of Village Form No. 7 filed as Annexure 'R2'.

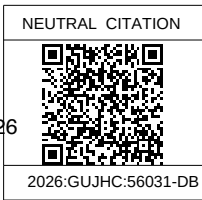
12. As per the Government Resolution dated 27.08.2001, which mandates absolute conservation, preservation, and development of all natural water bodies, lakes, and Kharaba ponds within the State, irrespective of their current physical or dilapidated conditions, the encroachments once detected, it becomes the duty of the State administration to take summary



legal action to set the removal of encroachment into motion immediately. The State administration is duty-bound to maintain constant vigil to ensure that no encroachment of any nature takes place on any public water bodies.

13. The further contention is that since the land in question falls within the definition of public lake/water body, it is the duty and responsibility of Ahmedabad Urban Development Authority (AUDA) to restore it to its original position by removal of encroachment, inasmuch as, the peripheral area of the lake is also earmarked for laying of a public road under AUDA's draft Town Planning (TP scheme). It is critically required for public utility and environmental rejuvenation by AUDA to restore the water body and the peripheral area of the water body to its original status.

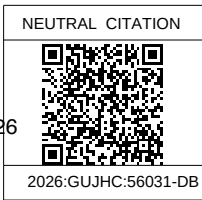
14. Taking note of the aforesaid affidavit, we have passed an order dated 22.07.2026 recording that the petitioners cannot continue to occupy the land in question for the same being a pond wasteland (Kharaba Talav) and they are liable to be evicted. It was observed that the petitioners cannot seek



continuance of their possession over the land in question or regularization of their occupation, and as such the inquiry which is directed towards finding out whether the petitioners are residents of the land in question is only misdirected. This Court has also noted that the eviction notices issued in the year 2012 are to be given effect to by the competent authority and the petitioners are liable to be evicted from the land in question, as none of the petitioners can claim any right to retain possession of the land for the same being a water body.

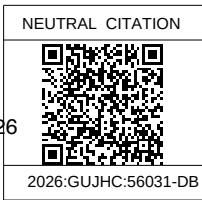
15. However, in order to address the concern of the petitioners seeking for rehabilitation as slum dwellers/hutment dwellers belonging to marginal sections of the society, we have directed the Chief Executive Officer, AUDA, to conduct an inquiry at its own end so as to ascertain whether the petitioners, being landless/homeless persons, are entitled to the benefit of the slum rehabilitation scheme of the state.

16. We have also noted that in the affidavit of AUDA filed in the year 2015, an indication was given to the effect that for



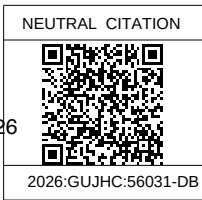
allotment of residential units for economically weaker sections by AUDA, the petitioners may apply in accordance with the scheme of AUDA. We, therefore, directed that each of the petitioners shall file their individual applications for allotment against the available scheme, which was directed to be duly dealt with by the Chief Executive Officer, AUDA, or the State Officer, AUDA, as the case may be.

17. In the personal affidavit of the Chief Executive Officer, AUDA, dated 27.08.2026, a categorical statement has been made to the effect that in total only 120 occupants have submitted their representations to AUDA for allotment of residential units. They were communicated in writing on 19.08.2026 about the availability of 95 residential units in a scheme of AUDA known as “Ayodhya Nagari”, developed on Revenue Survey No. 769 of Zundal for economically weaker sections, and that they are required to submit their online forms on or before 31.08.2026. None of the 120 applicants had submitted their applications online in spite of clear communication made to them on 19.08.2026, as is admitted by the learned Counsel for the petitioners herein.



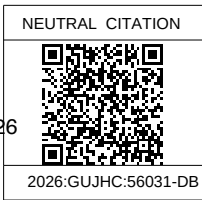
18. The stand of the Chief Executive Officer, AUDA, in his affidavit is that the staff members of AUDA have visited the site on 21.08.2026 and served the communication dated 19.08.2026 to those who were present and even posted the said communication at public places clearly stating that interested applicants have to apply Online on or before 31.08.2026 and thereafter computerized draw for allotment of residential units would be held. None of them have applied so far.

19. It is also brought on record in the affidavit of the Chief Executive Officer that in the scheme known as 'Ayodhya Nagari' at Zundal consisting of 1,120 residential units, 1025 units have already been allotted to eligible applicants after a computerized draw. 95 residential units were kept reserved pursuant to an administrative order owing to Court proceedings, and now an advertisement dated 16.07.2026 has been issued inviting Online forms for 95 residential units. The last date of submission of the online application form in the said advertisement was 31.08.2026.



20. Taking note of the fact that the present petition has been filed on behalf of 164 persons by the petitioner No. 1, namely People's Union for Civil Liberties, without any disclosure of the status of the said organization. The only assertion in paragraph No.2.1 of the writ petition is that People's Union for Civil Liberties is an all-India body, and it has different branches in different States of India, and it works largely for citizens of India to ensure that their basic human rights are preserved.

21. For the cause agitated by petitioner No.1 in the present writ petition, which is a body constituted with the aim and object of preservation of basic human rights, as stated in the writ petition, it is difficult to accept that as to how such an organization would agitate the right of persons who are sheer encroachers of a water body/periphery of the water body. Preservation of a water body and our environment is one of the facets of human rights, and the cause agitated in the present petition by challenging the show cause notices issued to the encroachers of a water body, is in fact against the object of the petitioner No.1, as is evident from their



assertions in the writ petition.

22. It is also pertinent to note that 164 persons whose cause is being agitated in the writ petition have remained in illegal possession of the Government land which is in the periphery of a water body, namely Aslali Lake and is a very crucial area for preservation of the water body, for a period of about 13 years, under the interim order of this Court, and no effort has been made by the petitioner No.1 organization so far to resolve the issue by engaging with the local authority, namely AUDA, for remedying the situation of competing human rights; i.e. basic human rights of the citizens for clean environment by preserving our natural/manmade public resources and the right of individual for shelter in affording housing schemes.

23. In so far as the role of AUDA is concerned, it is duty-bound to preserve the water body within the area of its jurisdiction. The interim order passed by this Court came in the way of AUDA even during the course of development of Aslali Lake which has been undertaken during the pendency



of the present writ petition.

24. In spite of all these facts and circumstances of the case, due indulgence was shown by this Court by giving opportunities to the occupants twice to represent their case before the competent authority. First opportunity was given before the Committee wherein during the course of inquiry, only 54 occupants out of 164 persons herein could be identified as persons belonging to the marginalized labour class, whereas 110 did not produce any document to show that they are occupying the area in question for a long time or they belong to the marginalized section of the society entitled to rehabilitation under the Government scheme framed for slum dwellers/hutment dwellers.

25. Second opportunity was granted to the petitioners herein for filing their representation before AUDA seeking allotment of residential units constructed by AUDA for weaker sections of the society. As noted hereinbefore, only 120 out of 164 persons herein had submitted their representations in writing under the order passed by this Court. When these 122



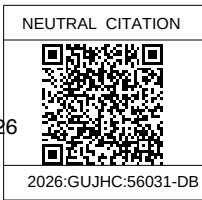
persons were intimated about the requirement of submitting an Online application on or before 31.08.2026 personally by the staff members of AUDA by serving them the communication dated 19.08.2026, individually, none of them have admittedly applied for allotment of residential units in the scheme of AUDA known as 'Ayodhya Nagari' for economically weaker sections of the society by the last date, i.e. 31.08.2026.

26. The subject matter of the present writ petition is a water body, namely, the Aslali Lake, which is in a town of the District Ahmedabad. Judicial notice can be taken of the fact that during heavy downpour, particularly during monsoon, a lake in the middle of the town is crucial to storm water drainage. Due to the encroachment in the periphery of the lake as it is evident from the documentary evidence on record, it is clear that the illegal occupants on the aforesaid water body have been impeding the aforesaid process of drainage for more than a decade. The direct and inevitable result, apart from the adverse effect on the ecology of the water body, would also be for these illegal occupants to be a cause for



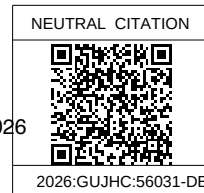
water-logging in the surrounding areas due to prevention of effective drainage. The consequence of the water-logging is the spread of parasite-borne and other diseases and disruption of life for thousands of residents in the vicinity of the said water body. In other words, the basic human rights of the residents around the water body are imperiled by these illegal occupants. Thus, this Court must consider the competing human rights of those affected by the action of the illegal occupants as well as inaction on the part of AUDA in failing to actively provide a resolution to this problem.

27. It is, thus, evident that none of the occupants of the land in question, namely Revenue Survey No.769, Mouje: Aslali, Taluka: Daskroi, District: Ahmedabad, which is a water body/pond wasteland (Kharaba Talav) reported in the Revenue records, are bonafide occupants of the land in question. They are sheer encroachers of the Government land which is in the periphery of a water body and is crucial for the maintenance of the water body for more than a period of 13 years. For the facts noted hereinabove, none of the applicants are entitled to further indulgence of this Court.



28. We, therefore, dismiss the writ petition outrightly with the further directions to AUDA to remove all kinds of encroachment over Survey No.769 (periphery of Aslali Lake/Kharaba Talav) within a period of two weeks from today by taking appropriate action while maintaining law and order situation on the spot. The Collector and the Superintendent of Police of the District shall provide necessary aid and assistance to the Chief Executive Officer, AUDA to carry out this operation within a period of two weeks.

29. After the aforesaid portion of the order was dictated in Court as a final opportunity as well as to test the bonafides of the persons affected by our order, we proposed to the Counsel for the petitioners that in spite of the time for filing the aforesaid Online Applications had expired on 31.08.2026, we would extend the time by a further three days from today so that every occupant may get another opportunity to apply for an accommodation as per the extant scheme, provided they would file an undertaking before this Court that after the expiry of two weeks as stated hereinabove, the petitioners will



peacefully hand over the vacant possession of the land in question to the respondent-authority. Accordingly, Mr. Shrimali requested that the matter may be kept post lunch at 2:30 p.m. so that he could obtain suitable instructions from his client. Eventually the matter was taken up at 4.00 p.m. when Mr. Shrimali conveyed to us that the concerned incumbents did not propose to avail of such opportunity. To our mind the aforesaid stand of these illegal occupants speaks volumes about their utter lack of bonafides and provides further justification for our observations made hereinabove.

30. The compliance affidavit placing on record the removal of encroachment and restoration of the land in question to its actual status shall be filed before this Court through the Registrar General of the High Court within a period of three weeks from today.

Dismissed, accordingly.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

BINA SHAH