



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 5346 of 2026**

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE DEVAN M. DESAI

=====		
Approved for Reporting	Yes	No
		✓
=====		

DHINOJ GRAM PANCHAYAT
Versus
HITENDRA CHELABHAI CHAUDHARI

=====

Appearance:

MS JANHVI N SONGARA(13254) for the Petitioner(s) No. 1
MR PH PATHAK(665) for the Respondent(s) No. 1
MS REENA M KAMANI(6007) for the Respondent(s) No. 1
MS SHREE P PATHAK(13126) for the Respondent(s) No. 1

=====

CORAM: HONOURABLE MR. JUSTICE DEVAN M. DESAI

**Date : 14/08/2026
JUDGMENT**

1. By way of this petition, the petitioner has prayed to quash and set aside the impugned orders dated 29.3.2025 & 30.10.2025 passed by learned Labour Court, Mahesana in Recovery Application No.3 of 2016 and Recovery Certificate Application No.19 of 2025 respectively.

2. Heard learned advocate Ms. Janhvi N. Songara for the petitioner and learned advocate Mr. P.H. Pathak and learned advocate Ms. Reena M. Kamani for the respondent No.1. Perused the record.



3. Brief facts of the case are as under:

3.1. Respondent-employee was working as a clerk with petitioner since 1991. Employee initiated recovery proceedings praying for recovery of Rs.7,24,680/- with 12% interest as per the government resolution dated 17.10.1988 against the petitioner before the learned labour Court, Mahesana. Learned Labour Court, the learned labour court *vide* order dated 06.07.2018 directed petitioner to pay Rs.7,24,680/- to the respondent from the year 2011 to 30.6.2016 . The said order was assailed by the petitioner by way of Special Civil Application No.16879 of 2018 before this Hon'ble Court and *vide* order dated 09.12.2019 Coordinate Bench of this Court quashed and set aside the order of learned Labour Court and petitioner was directed to move learned labour Court for fresh adjudication. While adjudicating the question of computation as per GR dated 17.10.1988, petitioner did contest the application. Learned Labour Court *vide* order dated 29.3.2025 held that respondent is entitled to recover Rs.7,24,680/- from the petitioner. Thereafter, respondent filed application for issuance of recovery certificate. *Vide* order dated 30.10.2025 the learned labour Court directed

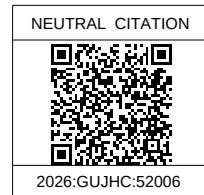


learned Collector, Patan to recover an amount of Rs.7,24,680/- as per recovery certificate. Thereafter, recovery certificate dated 19.11.2025 came to be issued.

3.2. Being aggrieved and dissatisfied with the impugned orders dated 29.03.2025 and 30.10.2025 and issuance of recovery certificate dated 19.11.2025, the petitioner is before this Court by way of present petition.

4. Learned advocate for the petitioner would submit that the learned Labour Court has seriously erred and failed to appreciate the settled proposition of law that the respondent has no pre-existing right to seek the benefits of Government Resolution dated 17.10.1988.

5. It is contended that the learned Labour Court has seriously erred and failed to appreciate that Recovery Application under Section 33(C)(2) of the Act is not maintainable without adjudicating rights of respondents. The Government Resolution dated 17.10.1988 was issued for giving the benefits to the daily wagers employee engaged in the activity relating to maintain



and repairing of construction in various Government Departments. The Government Resolution dated 17.10.1988 is not applicable to the respondent herein. Respondent was engaged for temporary work as and when required.

6. It is submitted that the then Sarpanch of the petitioner had engaged an advocate to represent the case, but learned advocate did not take proper care of the case and retired from the case. Thereafter, the earlier Sarpanch did not engage another advocate and the learned Labour Court has passed the impugned orders and issued the Recovery Certificate. In the present case, the earlier Sarpanch has not taken care properly to defend the case before the learned Labour Court. Hence, learned advocate for the petitioner has prayed that the impugned orders and the Recovery Certificate be quashed and set aside as they are passed ex-parte. Except above, no other submissions are made.

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



8. The core contention raised by learned advocate for the petitioner in challenging the orders dated 29.3.2025 passed by learned Labour Court Mahesana in recovery application No.3 of 2016, order dated 30/10/2025 passed by learned Labour Court in recovery certificate application No.19 of 2025 and recovery certificate dated 19-11-2025 issued by learned Labour Court is that the orders are passed *ex-parte* and respondent has no pre-existing right to seek the benefits of government resolution dated 17-10-1988. By stretching the aforesaid contention, learned advocate for the petitioner contended that without prior adjudication by the competent court, and application under section 33(C)(2) is directly not maintainable and any order passed under section 33(C)(2) of the Act is nullity.

9. It would be apposite to note at this stage that the petitioner had challenged the order dated 18.8.2018 recovery application No.3 of 2016 before the coordinate bench of this Court, by filing special Civil Application No.17729 of 2018, vide oral order dated 1.10.2019, order dated 18/8/2018 was quashed and set aside. The petitioner was given a liberty to move learned labour Court,



afresh and the learned labour Court was directed to decide all issues, including computation as per government resolution dated 17-10-1988. In the said order, the Coordinate Bench has observed that earlier petition being special Civil Application No.17661 of 2005, reinstatement of respondent was determined by this Court by confirming the award of the learned labour Court, except for the back wages.

10. It would be in the fitness of the things to refer a decision of Hon'ble Division Bench of this Court in the case of ***Lallubhai Bapujibhai Parmar v. Panchmahal District Panchayat reported in 2005 (3) GLR Online, 1907.*** Paragraph No.8 of the said decision is reproduced hereunder:

"8. The only ground which has weighed with the learned Single Judge for allowing the petitions of the District Panchayat and setting aside the orders dated 29.9.2003 of the Labour Court is that there was no pre-existing right in favour of the workmen and, therefore, without any adjudication in a reference under [Section 10\(1\)](#) of the Industrial Disputes Act, the Labour Court could not have made any order for issuance of recovery certificates for benefits arising out of the Government Resolution dated 17.10.1988.

The question of maintainability of the recovery applications would have been of any consequence and relevance only if the district panchayat had contended that the Government Resolution dated 17.10.1988 was not applicable to the district panchayat or that the workmen were not employed by the district panchayat for any activity like construction and maintenance. Apart from the fact that the district panchayat had not raised any such dispute in any previous round of litigation, the case of the district panchayat itself is that the Government Resolution dated 17.10.1988 is applicable to the appellant-workmen, but they were entitled to the benefits under the said resolution only with effect from 1.4.2000. Even according to the district panchayat, the workmen were paid the benefits under the said Government Resolution dated 17.10.1988 with effect from 1.4.2000 and the controversy between the



parties, therefore, merely was whether the workmen were entitled to the benefits of the said Government Resolution for the period from 1990-91 to 1993-94 or any other period between 1990-91 and 31.12.1999. The pre-existing right of the workmen flowing from the Government Resolution dated 17.10.1988 was, therefore, not disputed. Since the said Government Resolution stipulated that in order to get the minimum of the pay-scale the workman should have completed atleast five years' service with minimum 240 days' service in each year as contemplated by [Section 25B](#) of the Industrial Disputes Act, 1947, such provision did not detract from the fact that the workmen had pre-existing right to get the benefit of the Government Resolution dated 17.10.1988 upon fulfillment of the requirements stipulated in the said Government Resolution. When the specific jurisdiction is conferred on the Labour Court for passing an order under [Section 33C\(2\)](#) in favour of the workmen for recovery of dues and such jurisdiction is conferred in order to provide expeditious and inexpensive remedy to the workmen, the very object of such expeditious and inexpensive remedy under [Section 33C\(2\)](#) cannot be defeated by holding that the Labour Court could not have considered the question of implementation of the Government Resolution dated 17.10.1988 in case of the appellant-workmen without their first getting adjudication under [Section 10\(1\)](#) of the Act. The workmen were employed by the district panchayat way back in the year 1973. When the workmen completed five years' service with minimum 240 days' service in each year between 1973 and 1990 or similar inquiry would be made on the basis of such material as may be produced by the authorities before the Labour Court. Such inquiry does not require any adjudication of the question whether the Government Resolution dated 17.10.1988 was applicable to the district panchayat or whether the workmen were covered by the said Government Resolution, when admittedly the district panchayat itself has given the benefits of the said Government Resolution to the appellant-workmen, albeit with effect from a subsequent date and not from the date from which such benefits were claimed by the workmen. As per the settled legal position, [Section 33C\(2\)](#) is more comprehensive than [Section 33C\(1\)](#). [Section 33C\(2\)](#) applies not only to cases of settlement or award or cases under [Chapter VA of the Act](#), but to other cases as well. By a process of computation or calculation to be applied by it, the Labour Court has to determine the amount due. We are, therefore, clearly of the view that the recovery applications filed by the appellant-workmen were certainly maintainable under [Section 33C\(2\)](#) of the Industrial Disputes Act, 1947 and that the applications were certainly not premature."

11. On remand, the petitioner remained absent and did not agitate any issue such as non-existence of pre-existing rights or the respondent is not covered under the government resolution dated 17-10-1988. The contention of the employee that government resolution dated 17-10-1988 is applicable and the employee is entitled to all benefits under the said resolution has



gone unchallenged. The learned labour Court, after noticing all facts found that the applications required to be allowed and the same were allowed accordingly. As I do not find any infirmity or illegality in the orders impugned, the petition lacks merit and the same is dismissed with cost of Rs.20,000/-. Petitioner is directed to pay cost of Rs.20,000/- to the respondent-workman within a period of two weeks from the date of receipt of copy of this order.

RINKU MALI

(D. M. DESAI,J)