

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 886 of 2026

In R/SPECIAL CIVIL APPLICATION/13977/2026

With

CIVIL APPLICATION (FOR STAY) NO. 1 of 2026

In R/LETTERS PATENT APPEAL NO. 886 of 2026

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STATE OF GUJARAT & ORS.

Versus

M/S TAJ RESTAURANT OWNER AAKIB AMINBHAI KHAN & ORS.

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Appearance:

Mr. Kamal Trivedi, ADVOCATE GENERAL with

Mr. G.H.Virk Government Pleader with

Mr. Dharitri Pancholi AGP with

Mr. Brijensingh Thakur, AGP for the Appellant(s) No. 1,2,3,4,5,6

Mr. Asarar L Mansuri for respondent Nos.1 to 6.

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**CORAM:HONOURABLE THE ACTING CHIEF JUSTICE MR. JUSTICE
MANASH RANJAN PATHAK**

and

HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 30/10/2026

ORDER

**(PER : HONOURABLE THE ACTING CHIEF JUSTICE MR. JUSTICE
MANASH RANJAN PATHAK)**

1. Heard learned Advocate General Mr. Kamal Trivedi with Government Pleader Mr. G.H.Virk with AGP Mr. Dharitri Pancholi with AGP Mr. Brijensingh Thakur for the appellants and learned advocate Mr. Asarar L Mansuri for respondent

(original petitioners) Nos.1 to 6.

2. With regard to the similar issue in this appeal, it is brought to the notice of the Court by learned Advocate General that original petitioners No.3 to 6 earlier preferred Special Civil Application No.14356 of 2018 which is still pending for adjudication wherein, learned Advocate General has submitted that no stay order is in force.

3. On 10.07.2026, the District Magistrate, Gir-Somnath issued a Preliminary Notification under Section 33(1)(w) of the Gujarat Police Act, 1951 prohibiting the preparation, sale and storage of all meat/meat-mutton/fish and non-vegetarian dishes at lorry stalls, shops, restaurants, hotels on both sides of the public roads specifying the places mentioned therein and issued a preliminary notification dated 10.07.2026 seeking objections, if any from the public holding the time limit of 30 days of the publication of the said notification. Subsequent to that, by the said authority i.e. The District Magistrate, Gir-Somnath issued a Final Notification dated 10.08.2026 under sub-section (1) (w) of Section 33 of the Gujarat Police Act, 1951 whereby the authorities concerned permanently banned preparation, sale and storage of all meat/meat-mutton/fish and non-vegetarian dishes from 1. Balaka Temple to Bhidiya Circle, 2. From the

Bhidiya Circle to the Shankh Circle, 3. From Shankh Circle to Safari Circle, 4. From Safari Circle to Prajapati Dharamshala three roads, 5. From Gita Mandir to Hamirji Circle, 6. From Hamirji Circle to Shankh Circle and 7. All areas within 500 meters of Somnath Temple.

4. Aggrieved by the said Final Notification dated 10.08.2026 made by the District Magistrate, Gir Somnath dated 10.08.2026, the respondents herein preferred the Special Civil Application No. 13977 of 2026 and challenged the same before the learned Single Judge, the learned Single Judge after hearing the matter, kept the matter for orders and the judgment was pronounced today i.e. 30.10.2026 in the second half (around 03:00 PM) and allowed the petition. Though the decision was pronounced since it is pronounced today only till the circulation of this Letters Patent Appeal was sought for and even at the time when the matter was heard the judgment was not available or uploaded, the matter was heard looking to the sensitivity involved in the issue on hand as the learned GP Mr. Virk made a special mention to take up this Letters Patent Appeal against the order pronounced by the learned Single Judge and hence, the permission was granted to circulate the Letters Patent Appeal and accordingly, the Court assembled at around 5:30 pm and took up the matter and heard the Letters

Patent Appeal.

5. Learned Advocate General Mr. Kamal Trivedi while supporting the Final Notification issued by the District Magistrate, Gir Somnath under Section 33(1)(w) of the Gujarat Police Act, 1951, learned Advocate General Mr. Kamal Trivedi appearing for the appellants - State relied on the decision of the Hon'ble Supreme Court in the case of (i) ***Om Prakash and Others v. State of U.P. and Others***, reported in ***(2004) 3 SCC 402***, (ii) ***Rajinder Kumar and Others v. State of Punjab and Others***, reported in ***2026 SCC OnLine P&H 9990***, and (iii) ***Public Interest Litigation No. 453 of 2022 (Shahida v. State of U.P. and 3 Others)***, decided on ***28.03.2022*** by the Hon'ble Allahabad High Court and submitted vide all these three judgments the Hon'ble Supreme Court as well as two High Courts have held that the reasonable restrictions like the restrictions issued by way of notification dated 10.08.2026 are permitted under law and the aforesaid view taken by the Hon'ble Supreme Court still holds the field and the recent decisions of Punjab and Haryana High Court and Allahabad High Court are either not challenged or not interfered with by the Hon'ble Supreme Court.

6. In addition to the above submissions, it was contended that considering the forthcoming festival of Deepavali and Gujarati New Year and considering the fact that there will be holidays during this period, lakhs and lakhs of devotees are likely to visit Somnath Temple and in its adjoining religious areas and if the assembly therein is allowed to take meat/fish and non-vegetarian dishes in those specified areas it is not only going to hurt the sentiments of the devotees and believers of Somnath Temple and its adjoining religious areas that is likely to cause inconvenience and annoyance, risk, danger or damage to the places in concern and its vicinity by such assembly.

7. Learned advocate Mr. Asarar Mansuri appearing for the respondents submitted that the Final notification dated 10.08.2026 as well as preliminary notification dated 10.07.2026 issued by the District Magistrate, Gir Somnath under Section 33(1)(w) of the Gujarat Police Act, 1951 is not applicable, under the law stating that it relates to only places like public amusement or entertainment.

8. Section 33(1)(w) of the Gujarat Police Act, 1951 reads as follows:

"33. Power to make rules or regulation of

traffic and for preservation of order in public place, etc.

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*(w) (i) licensing or controlling places of public amusement or entertainment;
(ii) prohibiting the keeping of places of public amusement or entertainment or assembly, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity;
(iii) regulating the means of entrance and exit at places of public amusement or entertainment or assembly, and providing for the maintenance of public safety and prevention of disturbance thereat;"*

9. We have heard learned Advocate General Mr. Kamal Trivedi appearing with learned Government Pleader Mr. Virk as well as learned Advocate Mr. Mansuri, who appeared on behalf of Respondent Nos.1 to 6 and considered the submissions made by them, perused the record and considered the legal position canvassed by the learned Advocate General Mr. Trivedi. It is also noteworthy that learned Advocate Mr. Mansuri could not point out any single judgment, whereby a contrary view is taken either by the Hon'ble Supreme Court or by any other High Court and therefore, considering the aforesaid submission as well as considering the fact that during

the forthcoming Deepavali and the Gujarati New Year large number of devotees are likely to visit Somnath Temple, the Final Notification dated 10.08.2026 issued by the District Magistrate, Gir Somnath under Section 33(1)(w) of the Gujarat Police Act, 1951 shall remain in force till the returnable date and the order passed by the learned Single Judge in Special Civil Application No. 13977 of 2026 today (30.10.2026) shall remain stayed until further orders.

10. Issue **Notice** returnable by **25.11.2026**. Appellants shall take steps for service of notice on the respondent No. 7 by speed post within the next five working days, as well as by direct service. The Final Notification dated 10.08.2026 issued by the District Magistrate, Gir Somnath under Section 33(1)(w) of the Gujarat Police Act, 1951 shall remain in force till the returnable date and the order passed by the learned Single Judge in Special Civil Application No. 13977 of 2026 today (30.10.2026) shall remain stayed until further orders.

11. Since learned advocate Mr. Asarar L. Mansuri has appeared on behalf of Respondent Nos.1 to 6 and he waives the service of notice on behalf of Respondent Nos.1 to 6. Direct service for Respondent No.7.

12. List this matter on 25.11.2026 along with the Special Civil Application No. 14356 of 2018 that was preferred by the present respondent Nos.3 to 6 as petitioners.

(MANASH RANJAN PATHAK,ACJ)

(NIRZAR S. DESAI,J)

NAIR SMITA V.