

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) NO. 30 of 2022**

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JHALABHAI REVABHAI SATIYA (BHARWAD)
Versus
STATE OF GUJARAT

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Appearance:
MR MIHIR H PATHAK(5261) for the Applicant(s) No. 1
for the Opponent(s) No. 2
ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP for the
Opponent(s) No. 1

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CORAM: **HONOURABLE THE CHIEF JUSTICE MR. JUSTICE
ARAVIND KUMAR**
and
HONOURABLE MR. JUSTICE ASHUTOSH J. SHASTRI

Date : 08/04/2022

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND KUMAR)

1. Since no order adverse to the interest of the respondents are being passed, we are not issuing notice to the respondents.
2. Heard Mr.Mihir Pathak, learned counsel for the petitioner. Perused the records.
3. The petitioner has sought for the following reliefs.

(A) *YOUR LORDSHIP may be pleased to issued a writ of mandamus or a writ in the nature of the mandamus and/or a writ of certiorari or a writ in the nature of certiorari or and any other appropriate writ, order and direction to the State Government and/or appropriate authority i.e. Respondent No. 1 & 2 to immediately provide the gauchar land to the maldhari community in the limit of vadodara municipal corporation for grassing of cattle;*

(B) *YOUR LORDSHIPS, may be pleased to direct the Respondent authorities no. 1 & 2 to do fast process of tagging the cattle;*

(C) *Pending the present petition, Your Lordship*

may be pleased to stay the implementation of the tharav no. 132 dated 24.1.2022 till then they provide gauchar land to the maldhari community for grassing purpose and/or till final disposal of this writ petition;

(D) Pending the present petition, Your Lordship may be pleased to direct the authority to charge minimum penalty from the maldhari community for the cattle till they provide gauchar land to the maldhari community for grassing purpose and/or till final disposal of this writ petition.

4. Petitioner, who is claiming to be a contractor and belonging to Maldhari community, is claiming to espouse the public cause in this petition contending *inter alia* that he has no personal interest. It is further contended that petitioner is member of Maldhari community and being aware of the ground situation of the said community, which mainly earns their livelihood through milk vending business by having their cattle, is espousing their cause as they are not financially well off. Petitioner further states that Maldhari community is very economically backward and they are solely dependent on the production of milk from their cattle. It is stated that on account of expansion of the city, the community has lost the land where the cattle were being kept and on account of lack of funds to own more lands to accommodate the cattle, they are being kept in nearby lands for grazing and feeding purposes and for said purpose gauchar land reserved in rural areas.

5. It is the contention of Mr.Mihir Pathak, learned counsel for the petitioner that for the seizure of the cattle found on the public places, fines are being imposed by virtue of the Notification dated 15th October, 2013 and from time-to-time it has been increased and these fines are being imposed on account of cattle having been seized as the Maldhari community

is not having any vacant land or gauchar land for the cattle to feed themselves by grazing in the said gauchar lands. He contends that State is under obligation to provide gauchar land and would draw the attention of this Court to several directions issued to the State and the Municipalities in the matter of **Sharda Sahakari Gruh Mandali Ltd. v. Ahmedabad Municipal Corporation** on 28th June, 2006 as well as in the case of **Mustak Hussain Mehndi Hussain v. State of Gujarat** rendered in **Writ Petition (PIL) No.170 of 2017** on 11th May, 2018 whereunder the Court had directed the State to provide gauchar lands to the cattle for grazing amongst other directions issued and in consonance with the same, State is required to provide gauchar land at all places. Hence, he seeks for grant of the prayers sought for in the petition.

6. At the outset, it requires to be noticed that the present petition is not to be entertained and is being disposed of at the threshold itself, without even issuing notice to the respondents for the following reasons.

(i) Petitioner who claims to be a contractor and espousing the public cause, namely, cause of the Maldhari community has himself admitted that he belongs to Maldhari community which mean he has personal interest. Even if we ignore this fact for a moment and proceed to consider the claim of the petitioner on merits, we notice that gauchar lands are to be provided by the State or same is to be reserved for the purposes of the grazing of the cattle as provided in the Gujarat Land Revenue Code at the Village level, Taluka level and District level. It is these provisions which have been kept in mind by the Coordinate Bench while issuing directions in the matters of **Sharda Sahakari Gruh**

Mandali Ltd. as well as **Mustak Hussain Mehndi Hussain** cases referred to by learned counsel for the petitioner. The State is not expected of to provide gauchar land in the cities like Ahmedabad, Surat, Vadodara etc. Such claim requires to be considered for the purpose of rejection. If the persons who own the cattle in the cities, then they are required to ensure that the said cattle are kept in cattle shed or not allowed to stray in public streets, which would be causing public nuisance and many a times, road traffic accident or other mishaps would occur due to straying. Merely because the owners of the cattle is possessing or owning them, it cannot be allowed to stray on the streets in the cities like Ahmedabad, Surat, Vadodara etc. and that too for purposes of grazing. There is a responsibility cast on the owners of the cattle to tether their cattle in the cattle shed and not to allow them to graze elsewhere like leaving them in the city on roads. In that view of the matter, prayer sought for by the petitioner in this petition for issuing direction to the respondents to provide gauchar land in cities would be impermissible and it stands rejected.

(ii) A fervent plea has been made by Mr.Mihir Pathak, learned counsel appearing for the petitioner, that persons who are owning cattle, hail from very weak financial economic background and being poor are unable to pay the huge fines imposed by the Municipal authorities. Even according to the petitioner, the said cattle which have been seized are being released on payment of prescribed fine, the cattle which are not registered which has since been made compulsory or not being released for want of registration of cattle. Learned counsel appearing for the petitioner has raised two contentions, namely (i) there being no effective implementation of registration of

cattle; and (ii) the fines imposed are exorbitant and the cattle owners who hail from poor economic strata of the society are unable to pay the said fines. It is open for such persons whose cattle have been seized to approach the Commissioner of the Municipal Corporation or the Chief Officer of the Municipality to redress their grievances with regard to reduction of fine or requiring the authorities to take up a drive for registration of the cattles which has not yet been registered. In fact, it would be necessary to note at this juncture itself that steps have been taken by the Municipal authorities as well the State by calling upon the cattle owners to register their cattle pursuant to the directions issued in **Sharda Sahakari Gruh Mandali Ltd.** and **Mustak Hussain Mehndi Hussain's** case. Hence, it cannot be gainsaid by the owners of the cattle that registration is onerous or payment of fine is not called for.

7. Hence, reserving the liberty to the petitioner to submit their representation to the Municipal authorities, if so advised for redressing their grievances, we dispose of this petition subject to the observations made hereinabove.

(ARAVIND KUMAR, CJ)

(ASHUTOSH J. SHASTRI, J)

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