

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 9686 of 2006**

=====

THE TIMES OF INDIA (SUO - MOTU)
Versus
THE STATE OF GUJARAT & 14 other(s)

=====

Appearance:

MR PR ABICHANDANI(102) for the Petitioner(s) No. 1
SUO MOTU for the Petitioner(s) No. 1
MR UTKARSH SHARMA, AGP for the Respondent(s) No. 1,2,3,4,5,6
M/S TRIVEDI & GUPTA(949) for the Respondent(s) No. 8
MR HS MUNSHAW(495) for the Respondent(s) No. 10,11,12,13
MR PRANAV G DESAI(290) for the Respondent(s) No. 7,9
NANAVATI & NANAVATI(1933) for the Respondent(s) No. 8
NOTICE SERVED for the Respondent(s) No. 14

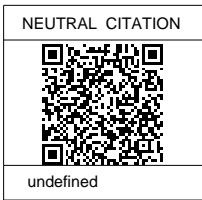
=====

**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL
and
HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE**

Date : 06/02/2024

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

1. By order dated 15.12.2022, taking note of the directions contained in the order of the Apex Court dated 16.2.2010 in Special Leave to Appeal (Civil) No.12037 of 2006 connected with other matters and Special Leave to Appeal (Civil) No.8519 of 2006, the direction was issued to the State to file their response through the Secretary, Home Department indicating the steps taken by them in furtherance to the communications dated 2.1.2020 and 7.1.2020, Annexure-R1 and Annexure-R2



annexed to the affidavit dated 16.1.2020, so as to enable the Court to pass a suitable direction. It is provided that the affidavit shall disclose not only the number of religious structures, which have been constructed over the public place in the 8 Corporations' limits, but also in the entire State, and the steps that have been taken for removal of such unauthorized religious places constructed over the open public spaces. We may note that in compliance of the said order, an affidavit dated 9.1.2023 has been filed by the Secretary, Home Department, bringing a list of constructions of unauthorized religious structures identified in the State of Gujarat as on 31.12.2010 and further the remaining unauthorized religious places as on 30.9.2022. The list appended as Annexure-A to the affidavit contains the action contemplated against the unauthorized religious structures/ encroachments between 31.12.2010 to 30.9.2022. From the said list, we may note that out of total unauthorized constructions mentioned therein as identified upto 30.9.2022, the action had been taken with respect to only 23.33%, that too there is no clarity as to whether the action was contemplated or taken against them as the column- 5 of the

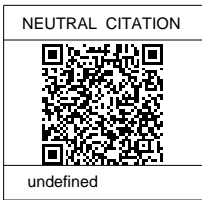
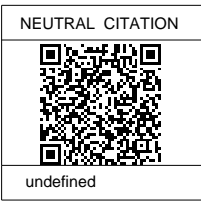


table has been constructed in the manner that it included both kinds of the structures against which the action was contemplated or taken. Further, we may note strong exception to the manner in which the affidavit has been filed by the Secretary, Home Department without giving any detail in the affidavit itself with regard to the nature of action taken in the matter of removal of unauthorized constructions in compliance of the directions issued by the Apex Court. The statement in the said affidavit that the petition be disposed of by this Court as the action plan which has been conceived by the State Government will take care of any further encroachment, is wholly uncalled for. The policy decision issued by the Government Resolution dated 16.7.2022 though has been appended with the affidavit but the compliance of the said resolution has not been brought on record.

2. For the aforesaid, we direct the learned Assistant Government Pleader to file further affidavit of the Secretary, Home Department in strict compliance of the directions contained in the judgment and order dated 15.12.2022 which has been issued in view of the directions contained in the order



of the Apex Court dated 16.2.2010 passed in the aforesaid matters where respective High Courts have been directed to ensure implementation of the directions issued by the Apex Court.

3. As prayed by the learned Assistant Government Pleader, the matter is posted on **27.2.2024**.

Sd/-
(SUNITA AGARWAL, CJ)

Sd/-
(ANIRUDDHA P. MAYEE, J.)

OMKAR