

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 18 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

GEETABEN MANOJKUMAR JOSHI

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Petitioners
GOVERNMENT PLEADER for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2, 3, 4, 5, 6

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 20/10/2000

C.A.V.JUDGEMENT

In this petition under Article 226 of the Constitution, the Sarpanch of Bhildi Group Gram Panchayat, ex-Sarpanch of Mudetha Gram Panchayat and a

few residents of Bhildi taluka have challenged the Government notification dated 31.12.1999 abolishing Bhildi taluka. Prior to 15.10.1997 Bhildi and other villages in Deesa taluka. Upon reconstitution of districts and talukas which took place on 15.10.1997 a new taluka, namely, Bhildi taluka came into existence comprising of 28 villages. By subsequent notification dated 31.12.1997 25 more villages were added in Bhildi taluka and accordingly Bhildi taluka comprised of 53 villages. Thereafter, by the impugned notification dated 31.12.1999 all the 53 villages are again made part of the original Deesa taluka and hence the present petition.

2. Mr. Jayant Patel, learned counsel for the petitioners raised various contentions:

(i) The impugned decision has been taken without giving opportunity of being heard to the residents of erstwhile Bhildi taluka or even the gram panchayats of the villages which were formerly part of Bhildi taluka before 31.12.1999. Hence, the impugned decision is illegal.

(ii) The mandatory procedure of consultation with District Panchayats and Taluka Panchayats was not followed by the Government before issuing the impugned notification dated 31.12.1999 as required by the provisions of Section 9 of Gujarat Panchayats Act read with Section 7 of Bombay Land Revenue Code.

(iii) Out of 28 village which were originally part of Bhildi taluka as per notification dated 15.10.1997, sarpanchs of as many as 26 villages have filed affidavits in this petition stating that they want continuation of Bhildi taluka. Hence, the impugned decision taken in disregard of and against the wishes of the concerned gram panchayats is illegal and arbitrary. The villages are having business relations with Bhildi town and hence continuation of Bhildi taluka was very much required.

(iv) The impugned notification is also malafide as the Cabinet Sub Committee known as Review Committee constituted for the purpose of reconstitution of talukas and districts did not recommend for abolition of Bhildi taluka.

(v) The impugned decision has been taken solely on the basis of the opinion of respondent No.6-MLA of the area and the MP. Before the notification could be implemented this Court granted interim relief on 5.1.2000

and the Government was also instructed not to make any change.

3. On the other hand, Mr.S.N.Shelat, Ld.Additional Advocate General with Ld.GP Mr.A.D.Oza have opposed the petition. The contentions urged on behalf of the respondent authorities in Special Civil Application No.10459/99 are adopted in so far as the questions of law are concerned. On factual aspect it is submitted as under:

(i) The villages in erstwhile Bhildi taluka were well connected and attached with Deesa taluka and Deesa town. Earlier, the villages were part of Deesa taluka. Village people have business relations with Deesa. Deesa is one of the big cities of Banaskantha District having many market facilities which were lacked by Bhildi town in comparison with Deesa town. The Cabinet sub committee recommended for abolition of Bhildi taluka and to merge the villages in Deesa taluka. The committee in its interim report pursuant to the meeting held on 14.5.1998 had observed that looking to the fact that Deesa taluka had population of about 2.89 lacs and 147 villages, previously the decision was taken to bifurcate the Deesa taluka, that the population of newly created Bhildi taluka was only 46,000 and it had only 28 villages. Thus Bhildi was comparatively a small town and the Deesa town had large population, the purpose of bifurcation was not served. Hence, Bhildi taluka was required to be abolished and made part of Deesa taluka. If necessary there should be two talukas, namely, Deesa city Taluka and Deesa Rural Taluka (para 30 on page 41 of the report of the Sub Committee). The Committee presided over by the Chief Secretary had also recommended for abolition of Bhildi Taluka.

(ii) 12 out of 28 villages had also expressed their wish for abolition of Bhildi taluka and to remain under Deesa taluka. The Honourable Minister Shri Harjivanbhai Patel and MLA Shri Gordhanji Mali had also requested the Government to consider the abolition of Bhildi taluka in the larger interest of people. The Sub Committee recommended for abolition of Bhildi taluka and to include the villages in the Deesa taluka. 12 villages like Bhadramali, Jabadia, Sadharpur, Desanavas and other villages are also located on the other side of Banal river and they do not want to be a part of Bhildi taluka. 14 members of Taluka/Gram Panchayat have objected to the said villages being put into Bhildi taluka. Objections were received from various villagers even when the

notification dated 15.10.1997 was being implemented.

4. Having heard the learned counsel for the parties this Court is of the view that as far as the contentions based on the provisions of Gujarat Panchayats Act and Bombay Land Revenue Code and principles of natural justice are concerned, the same are required to be negatived in view of the decision rendered by this Court today in Special Civil Application No.10459/99.

5. On the factual aspect, as per well settled legal position, this Court does not sit in appeal over the decision of the Government in such matters of reconstitution/abolition of talukas. The fact remains that the purpose of bifurcation of Deesa taluka with a population of 2.89 lacs as per 1991 census and 147 villages was not served by creating Bhildi taluka comprising of only 28 villages and population of only 56,000 leaving Deesa Taluka as a large Taluka. The decision can not, therefore, be said to be arbitrary. The Committee also took the view that the administrative efficiency could be better achieved by creating a separate taluka for Deesa Town.

6. In view of the above factual aspect, no fault can be found with the decision of the Government in abolishing the Bhildi taluka.

7. In view of the above discussion, Rule is discharged. The ad-interim relief granted earlier is vacated. There shall be no order as to costs.

8. At this stage, Mr.Jayant Patel, Learned Counsel for the petitioners prays that the ad interim relief granted earlier be continued for sometime in order to enable the petitioners to have further recourse in accordance with law. Ad interim relief granted earlier shall continue till 8.11.2000.

20.10.2000 (M.S.SHAH,J)