

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.13780 of 2015

For Approval and Signature:

HONOURABLE MR.JUSTICE R.M.CHHAYA Sd/-

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	NO
2	To be referred to the Reporter or not ?	NO
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	NO
5	Whether it is to be circulated to the civil judge ?	NO

GURUKRUPA ENTERPRISE....Petitioner(s)

Versus

STATE OF GUJARAT & 4....Respondent(s)

Appearance:

MR SHUSHIL R SHUKLA, ADVOCATE for Petitioner No. 1
ADVANCE COPY SERVED TO GP/PP for Respondent(s) No.1
NOTICE SERVED BY DS for the Respondent(s) No. 1 - 5

CORAM: HONOURABLE MR.JUSTICE R.M.CHHAYA

Date : 30/09/2015

ORAL JUDGMENT

- (1) Heard learned advocate for the petitioner.
- (2) **RULE.** Mr.Manan Mehta, learned Assistant Government Pleader, appears on advance copy and waives service on behalf of the respondent authorities. With consent of the parties the matter is taken up for final disposal forthwith.

- (3) By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, order or direction directing the respondent authorities to continue on-line royalty passes/virtual account of the petitioner with respect to lease in question and has also prayed for quashing and setting aside order dated 06.08.2015 passed by respondent-District Collector, Jamnagar.
- (4) It is predominantly contended on behalf of the respondent authorities that before passing the order dated 06.08.2015, which is impugned in this petition, the petitioner was not given opportunity of being heard.
- (5) Learned advocate for the petitioner has also relied upon order dated 13.08.2015 passed by this Court in Special Civil Application No.12338/15 (in case of Vasantkumar nathabhai Parmar Vs. the State of Gujarat & Ors.) and has submitted that in similarly situated case as it was found that principles of natural justice have been breached the order came to be quashed and set aside and the District Collector was asked to re-hear the parties, without expressing any opinion on merits.
- (6) In order to examination the short ground, which

was asserted by the learned advocate for the petitioner, Mr. Manan Mehta, learned Assistant Government Pleader appearing for the respondent authorities, was asked to verify the said fact, who, on written instructions received from the office of Geologist at Jamnagar, has submitted that before passing the impugned order dated 06.08.2015 the petitioner was not heard.

- (7) In view of such admitted position, only on short ground, the impugned order deserves to be quashed and set aside, as decided by this Court in the case of Vasantkumar Nathabhai Parmar (supra). Accordingly, the impugned order is hereby quashed and set aside and the proceedings are remitted back to respondent-District Collector, Jamnagar, who is also directed to pass necessary order after giving opportunity of bearing to the parties. It is clarified that this Court has not gone into the merits of the matter and the respondent-District Collector shall take a fresh decision in accordance with law, without being influenced by any of the observations made in the impugned order as well as in this order on its own merits. Considering the issue involved in the matter, the respondent-District Collector shall take decision as expeditiously as possible. It is further clarified that in view of the order passed, the other

consequently orders shall be passed by the authority as held by this Court in the case of Vasantkumar nathabhai Parmar (supra).

- (8) Petition is allowed to the aforesaid extent. Rule is made absolute accordingly. There shall be no order as to costs.

Sd/-
[R.M.CHHAYA, J]

*Bhavesh [pps]**