

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO.6296 of 2022**

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RAJENDRASINH JUVANSINH CHAUHAN

Versus

STATE OF GUJARAT

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Appearance:

MR SWAPNESHWAR GOUTAM(9051) for the Petitioner(s) No. 1

for the Respondent(s) No. 2

ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP for the

Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE BIREN VAISHNAV****Date : 31/03/2022****ORAL ORDER**

1. Heard Mr. Swapneshwar Goutam, learned for the petitioner. He submits that a Show Cause Notice is issued to the petitioner which is under challenge. The notice so issued is only because the petitioner was convicted for the offences under Sections 143, 147, 148, 149, 323 and 337 of the Indian Penal Code read with Section 135 of the Gujarat Police Act. He would submit that apart from the fact that for the conviction of July, 2021 the Show Cause Notice is issued in March, 2022, after a period of almost eight months, merely because of conviction for the offences under Sections 143, 147, 148, 149, 323 and 337 of the Indian Penal Code, the notice has predetermined that a penalty of removal will be imposed and the issuance of the notice is an empty formality.

2. Mr. Goutam relies on the decision of the Hon'ble Supreme Court in the case of *Shankar Dass v. Union of India reported in 1985(2) SCC 358*, paragraph No.7 thereof is pressed into service.
3. Considered the submissions made by the learned counsel for the petitioner. It is well settled that discretion under Article 226 of the Constitution of India should not be exercised in a challenge to a Show Cause Notice. This is one case in which the Court should not. It is expected that when the respondent - Corporation pursuant to the notice under challenge considers the response of the petitioner already filed on 24.3.2022, the Corporation shall consider the nature of the gravity of the offences and the circumstances which led to his conviction and other circumstances and pass an order in accordance with law.
4. In view of the aforesaid observations made by the Court, learned counsel for the petitioner seeks permission to withdraw this petition. Permission is granted, as prayed for. The petition stands disposed of as withdrawn. No order as to costs.

[ BIREN VAISHNAV, J. ]

VATSAL S. KOTACHA