

ITEM NO.55

COURT NO.12

SECTION III-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).16089/2025

[Arising out of impugned final judgment and order dated 03-03-2025 in LPA No. 321/2025 passed by the High Court of Gujarat at Ahmedabad]

REKHABEN ABHALBHAI BAMBHANIYA

Petitioner(s)

VERSUS

THE STATE OF GUJARAT & ORS.

Respondent(s)

IA No. 305597/2025 - EXEMPTION FROM FILING O.T.

IA No. 139846/2025 - EXEMPTION FROM FILING O.T.

IA No. 46209/2026 - EXEMPTION FROM FILING O.T.

Date : 18-05-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MANOJ MISRA

HON'BLE MR. JUSTICE VIPUL M. PANCHOLI

For Petitioner(s) : Mr. Abhimanue Shrestha, AOR

For Respondent(s) : Ms. Swati Ghildiyal, AOR
Mr. Sankalp Suman, Adv.

Mr. Mayank Kshirsagar, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Heard the learned counsel for the parties.
2. This petition seeks leave to impugn the order of the High Court of Gujarat at Ahmedabad dated 03.03.2025 by which the writ appeal of the petitioner against the order of the learned Single Judge dismissing the writ petition of the petitioner impugning the order of her removal from the post

of Sarpanch, under Section 57(1) of the Gujarat Panchayat Act, 1993, has been dismissed.

3. The petitioner was served a show cause notice levelling six charges relating to misuse of authority as Sarpanch of Gram Panchayat. Amongst those six charges, charge nos. 5 and 6 relate to award of contracts to a firm in which petitioner's husband was a partner. The petitioner submitted her response to the show cause notice. In respect of charge nos.5 and 6, the petitioner's case was that such contracts were awarded after inviting public tender and upon finding the bidder to be the lowest.

5. The District Development Officer considered the representation of the petitioner and concluded: *"It is proved on record that her husband Ebhalbhai Mathurbhai Bambhaniya despite being a partner of Maruti Stone, he got personal benefit by paying Rs.13,52,350/- and thus by taking frivolous decisions you have committed frequent mistakes and by misusing your designation, you have got personal benefit for your husband means the member of the family and thereby it is proved that you have misused the post of Sarpanch."*

6. The petitioner questioned the order passed by the District Development Officer before the Additional Development Commissioner in an appeal which was dismissed.

7. Against the appellate order, a writ petition was preferred before the High Court. The learned Single Judge

dismissed the writ petition against which the writ appeal was filed, which too was dismissed.

8. The submission of the learned counsel for the petitioner is that a bare perusal of the order passed by the District Development Officer would indicate that after receipt of representation from the petitioner, he had called for a report from the Taluka Development Officer. The decision was taken thereafter. It is the case of the petitioner that this report was an adverse material considered by the District Development Officer and, therefore, before relying upon the same, the petitioner should have been provided a copy of the said material to enable her to submit a response. As such material was not supplied to the petitioner, principles of natural justice have been violated and, therefore, the order is liable to be set-aside.

9. The High Court rejected the aforesaid contention on the ground that the charge of providing contractual benefits to her own husband is not denied by the petitioner and, therefore, merely on the ground that certain additional material was taken into consideration, no prejudice has been caused. Besides, principles of natural justice are not to be applied mechanically. Therefore, if no prejudice is caused by non-supply of any material, and the ultimate decision is sustainable on the admitted position, interference with the final decision is not required.

10. Before us, the learned counsel for the petitioner has submitted that there is no prohibition either under the Gujarat Panchayat Act, 1993 or under the rules framed thereunder proscribing a Sarpanch, or any member of the Panchayat, to award a contract of a Panchayat to any member of his/ her family. Moreover, the contract concerned was awarded after inviting public tender and by a resolution of the Panchayat premised on the fact that his bid was the lowest. In such circumstances, it cannot be said that the petitioner had misused her position as a Sarpanch.

11. In response to the above submission, the learned counsel for the respondent has invited our attention to Section 30 of the Gujarat Panchayats Act. Section 30(1) (g) provides as under:

"30. Disqualification of. - (1) No person shall be a member of a panchayat or continue as such who -

...

(g) has directly or indirectly, by himself or his partner, any share or interest in any work done, by order of the panchayat, or in any contract with, by or on behalf of, or employment with or under the panchayat"

12. It has been pointed out that a similar provision came up for interpretation before this Court in *Virendrasing vs. Additional Commissioner and Ors.* (2023) 18 SCC 438. In that case, the member of the Zila Parishad had been part of the decision-making process whereunder contract was awarded to

his son.

13. The concerned Zila Parishad Act provided for disqualification in certain circumstances enumerated in Section 16 thereof, which reads as under:

"16. Disqualifications. - (1) Subject to the provisions of sub-section (2), a person shall be disqualified for being chosen as, and for being, a Councillor -

(i) if he has directly or indirectly by himself or by his partner any share or interest in any work done by order of the Zilla Parishad or in any contract with, by or on behalf of, the Zilla Parishad; ..."

Section 40 of that Act provided as follows:-

"40. Disqualification of Councillors during term of office. - (1) Subject to the provisions of sub-section (2) of Section 62, if any Councillor during the term of his office -

** * * * **

[(2) If any question whether a vacancy has occurred under this section is raised either by the Commissioner suo motu or on an application made to him by any person in that behalf, the Commissioner shall decide the question [as far as possible] within ninety days from the date of receipt of such application; and his decision thereon shall be final. Until the Commissioner decides that the vacancy has occurred, the Councillor shall not be disabled from continuing to be a Councillor:

Provided that, no decision shall be given

against any Councillor without giving him reasonable opportunity of being heard.]”

14. Interpreting the aforesaid provisions in paragraph 17, this Court observed:

“17. The legislature in its wisdom has defined the grounds for disqualification in expansive terms under Section 16(1)(i) of the said Act. Thus, the use of the terminology - “directly or indirectly”, “by himself or by his partner”, “any share or interest in any work done”, by “order of Zilla Parishad or in any contract with”, and “by or on behalf of the Zilla Parishad”. All eventualities where the Councillor can be said to have any financial connection with the work of the Zilla Parishad were sought to be included, with the object of discouraging the practice of financial patronage that is inherently beneficial to the elected representatives.”

(Emphasis supplied)

15. The Court, thereafter, in paragraphs 20 and 23, observed as follows:

“20. Despite these factual differences, we find that the common principle that can be culled out from the aforementioned cases is that this Court had cautioned against interpreting disqualification provisions in an overly restrictive or narrow manner. In both cases, this Court had noted that the salutary purpose of such provisions was to ensure the purity of administration in Municipal Committees.

23. We believe that probity in such financial transactions should be the rule rather than the exception. The appellant had a greater responsibility as a father to make sure that his son does not enter into a contract that is sanctioned by the Zilla Parishad itself. We may note the finding of fact by courts below that nothing had been placed on record to show even a separation of residence between the son and the father, other than a ration card purporting to show that the son was living with his grandmother. It was rightly observed that this was neither here nor there, more so when the son had just completed his education."

16. After observing as above, this Court upheld the disqualification of that member in view of the provisions of Section 40 read with Section 16.

17. In the instant case also, we find a similar provision as came for interpretation before this Court in *Virendrasing vs. Additional Commissioner and Ors. (Supra)*.

18. No doubt, the petitioners' case is that the award of contract to her husband was through a public tender but there is nothing on record to show that there was separation between her and her husband.

18. In such circumstances, too restrictive an interpretation to the disqualification clause would frustrate the very object for which it is incorporated in the statute.

19. In such view of the matter, though we are not dealing with the issue of disqualification, based on the admitted position, we do not find it to be a fit case to interfere with the finding returned by the authorities that the petitioner misused her position as Sarpanch in awarding contracts to her own family. As a sequitur, the order passed by the High Court calls for no interference.

20. The Special Leave Petition is, accordingly, dismissed.

21. Pending application(s), if any, also stand disposed of.

(HARPREET KAUR)
COURT MASTER (SH)

(SAPNA BANSAL)
COURT MASTER (NSH)