

Reserved On : 22/04/2026

Pronounced On : 21/07/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 19474 of 2023

With

**CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2026
In R/SPECIAL CIVIL APPLICATION NO. 19474 of 2023**

With

R/SPECIAL CIVIL APPLICATION NO. 1115 of 2025

With

R/SPECIAL CIVIL APPLICATION NO. 14809 of 2025

With

R/SPECIAL CIVIL APPLICATION NO. 14145 of 2025

With

**CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2025
In R/SPECIAL CIVIL APPLICATION NO. 14145 of 2025**

With

R/SPECIAL CIVIL APPLICATION NO. 14274 of 2025

With

R/SPECIAL CIVIL APPLICATION NO. 14298 of 2025

With

**CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/SPECIAL CIVIL APPLICATION NO. 14298 of 2025**

With

R/SPECIAL CIVIL APPLICATION NO. 14300 of 2025

With

**CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2025
In R/SPECIAL CIVIL APPLICATION NO. 14300 of 2025**

With

R/SPECIAL CIVIL APPLICATION NO. 14977 of 2025

With

R/SPECIAL CIVIL APPLICATION NO. 15309 of 2025

With

R/SPECIAL CIVIL APPLICATION NO. 15574 of 2025

With

R/SPECIAL CIVIL APPLICATION NO. 16471 of 2025

With

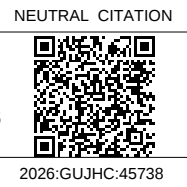
R/SPECIAL CIVIL APPLICATION NO. 758 of 2026

With

**CIVIL APPLICATION (FOR STAY) NO. 2 of 2026
In R/SPECIAL CIVIL APPLICATION NO. 758 of 2026**

With

R/SPECIAL CIVIL APPLICATION NO. 1224 of 2026



**With
R/SPECIAL CIVIL APPLICATION NO. 5138 of 2026**

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE NIRAL R. MEHTA

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Approved for Reporting	Yes	No
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DAYAL GRAM PANCHAYAT THROUGH SARPANCH RAMESHBHAI
DHULABHAI DAMOR & ORS.

Versus
STATE OF GUJARAT & ORS.

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Appearance:

SPECIAL CIVIL APPLICATION NO.19474 OF 2023:

MR MIHIR JOSHI, SENIOR ADVOCATE with MR DIPAN DESAI(2481) for the Petitioner(s) No. 1,2,3,4,5,6,7,8,9
MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR GH VIRK GOVERNMENT PLEADER with MR VINAY BAIRAGRA, AGP with MS DHARITRI PANCHOLI, AGP with MR JAY BAROT, AGP for the Respondent(s) No.1-2
MR PRAKASH K JANI with MR PRAVIN P PANCHAL(2059) for the Respondent(s) No. 3

SPECIAL CIVIL APPLICATION NO.1115 OF 2025:

MR HARDIK C RAWAL for Petitioners
MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR GH VIRK, GOVERNMENT PLEADER with MR VINAY BAIRAGRA, AGP with MS DHARITRI PANCHOLI, AGP with MR JAY BAROT, AGP for the Respondent(s) No.1
MR DEEPAK SANCHELA for Respondent No.2

SPECIAL CIVIL APPLICATION NO.14809 OF 2025:



MR PRAKASH G PANDYA for Petitioners
MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR GH VIRK
GOVERNMENT PLEADER with MR VINAY BAIRAGRA, AGP with
MS DHARITRI PANCHOLI, AGP with MR JAY BAROT, AGP for the
Respondent(s) No.1-2
MR DEEPAK SANCHELA for Respondent No.3

**SPECIAL CIVIL APPLICATIONS NOS.14145 OF 2025, 14274 OF
2025, 14298 OF 2025 AND 14300 OF 2025:**

MR SHALIN MEHTA, SENIOR ADVOCATE with MR N P
CHAUDHARY(3980) for the Petitioners
AISHVARYA(8018) for the Respondent(s) No. 2
MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR GH VIRK
GOVERNMENT PLEADER with MR VINAY BAIRAGRA, AGP with
MS DHARITRI PANCHOLI, AGP with MR JAY BAROT, AGP for the
Respondent(s) No. 1,5
MR KAMLESH S KOTAI(6150) for the Respondent(s) No. 3
MR MEHUL SHARAD SHAH(773) for the Respondent(s) No. 4

SPECIAL CIVIL APPLICATION NO.14977 OF 2025:

MR HARSH RAVAL for MR SUBODH KUMUD for Petitioner
MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR GH VIRK
GOVERNMENT PLEADER with MR VINAY BAIRAGRA, AGP with
MS DHARITRI PANCHOLI, AGP with MR JAY BAROT, AGP for the
Respondent(s) No.1,2,4
MR KAASH THAKKAR for Respondent No.5

SPECIAL CIVIL APPLICATION NO.15309 OF 2025:

MR BY MANKAD for the petitioner
MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR GH VIRK
GOVERNMENT PLEADER with MR VINAY BAIRAGRA, AGP with
MS DHARITRI PANCHOLI, AGP with MR JAY BAROT, AGP for the
Respondent(s) No.1,3
MR UM SHASTRI for respondent No.4

**SPECIAL CIVIL APPLICATION NO.15574 OF 2025:**

MR BY MANKAD for the petitioner

MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR GH VIRK
GOVERNMENT PLEADER with MR VINAY BAIRAGRA, AGP with
MS DHARITRI PANCHOLI, AGP with MR JAY BAROT, AGP for the
Respondent(s) No.1,2

MR UM SHASTRI for respondent No.3

SPECIAL CIVIL APPLICATION NO.16471 OF 2025:

MR BY MANKAD for the petitioner

MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR GH VIRK
GOVERNMENT PLEADER with MR VINAY BAIRAGRA, AGP with
MS DHARITRI PANCHOLI, AGP with MR JAY BAROT, AGP for the
Respondent(s) No.1,2

MR UM SHASTRI for respondent No.3

SPECIAL CIVIL APPLICATION NO.758 OF 2026:

MR DHAVAL D VYAS, SENIOR ADVOCATE with MR NAMAN
BRAHMBHATT for petitioners

MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR GH VIRK
SGOVERNMENT PLEADER with MR VINAY BAIRAGRA, AGP with
MS DHARITRI PANCHOLI, AGP with MR JAY BAROT, AGP for the
Respondent(s) No.1-3,5-6

SPECIAL CIVIL APPLICATION NO.1224 OF 2026:

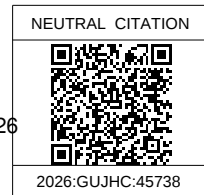
MR PV PATADIA for MS ARTI K BHIL for Petitioners

MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR GH VIRK
GOVERNMENT PLEADER with MR VINAY BAIRAGRA, AGP with
MS DHARITRI PANCHOLI, AGP with MR JAY BAROT, AGP for the
Respondent(s) No.1-2,4

SPECIAL CIVIL APPLICATION NO.5138 OF 2026:

MR BHARAT T RAO for Petitioners

MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR GH VIRK
GOVERNMENT PLEADER with MR VINAY BAIRAGRA, AGP with
MS DHARITRI PANCHOLI, AGP with MR JAY BAROT, AGP for the
Respondent(s) No.1-3



MS BHAVNA D ACHARYA for Respondent No.4

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CORAM:HONOURABLE MR. JUSTICE NIRAL R. MEHTA

COMMON CAV JUDGMENT

[1] Since the entire batch of captioned petitions, having principal question of law in common, therefore, the same are heard together and are being decided analogously by this common judgment and order.

[2] In the captioned petitions, the challenge is to the Notifications issued by the Urban Development and Urban Housing Department, State of Gujarat under Article 243Q(2) of the Constitution of India, merging, *inter alia*, various village panchayats either into the Municipalities or in the Municipal Corporation.

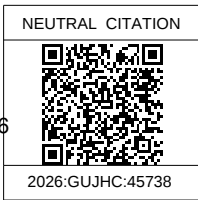
[3] Basic facts of each petition are stated hereinbelow:

SPECIAL CIVIL APPLICATION NO.19474 OF 2023:

[3.1] It is the case of the petitioners that on 30th October 2014, Godhra Municipality resolved to include the areas of villages



such as Jafarabad, Vavdi (Buzarg), Chikhodara and Bhamaiya. In furtherance thereof, the State Government, by Notification dated 13th August 2025, in exercise of powers conferred under Article 243P(d) of the Constitution of India, whereby, the areas of villages Vavdi (Buzarg), Bhamaiya and Vanakpur Gram Panchayat were notified within the limits of the Godhra Municipality. The said Notification dated 30th October 2014 was then challenged before this Court by way of various Special Civil Applications being Special Civil Application NO.3740 of 2016, 12426 of 2017 and 12416 of 2016. Those petitions then were dismissed by the Coordinate Bench of this Court vide judgment and order dated 1st September 2022. Assailing the decision, Letters Patent Appeals Nos.1226 of 2022 and 1244 of 2022 were filed. The Division Bench of this Court, vide judgment and order dated 9th March 2023, allowed the Letters Patent Appeals holding, *inter alia*, Article 243P(d) of the Constitution of India is a defining Article and powers ought to have been exercised under Article 243Q(2) of the Constitution of India after following procedure and reasons contemplated under Article 243Q(2) of the Constitution of India.



[3.2] Again, on 17th October 2023, the State Government has issued a Notification, in exercise of its powers under Articles 243Q(2) and 243P(d) of the Constitution of India, whereby the areas of 6 (six) Gram Panchayats namely Govindi, Jafarabad, Vanakpur, Bhamaiya, Vavdi (Buzarg) are included in the municipal limits of the Godhra Municipality.

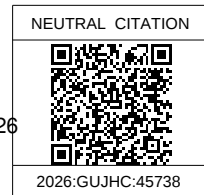
SPECIAL CIVIL APPLICATIONS NOS.15309 OF 2025, 15574 OF 2025 AND 16471 OF 2025:

[4] Challenge in the aforesaid petitions is to the Notification dated 14th October 2025 issued by the Urban Development and Urban Housing Department, State of Gujarat, in exercise of powers, under Articles 243Q(2) with 243P(d) of the Constitution of India merging, inter alia, the areas of village Panchayat namely Labhi, Mithapur, Kharediya Gram Panchayat and Vata Vachhoda Gram Panchayat in the municipal limits of Shehara Municipality. Pertinently, in the said Notification dated 14th October 2025, in all 7(seven) Gram Panchayats were merged in the local limits of the Shehara Municipality, however, except, the



petitioners, other Gram Panchayats have accepted the Notification and willingly merged in the local limits of the Shehara Municipality.

[4.1] It is the case of the petitioners that by way of different resolutions, all the petitioner's panchayats have raised their objections for inclusion in the limits of Shehara Municipality and representation to that effect was also made to the authorities, however, without giving any opportunity of hearing or calling of any documentary evidence, the Notification dated 14th October 2025 was published. Pertinently, in the affidavit-in-reply, the State Government has produced the details of the resolution passed by the petitioner's panchayats showing their willingness and agreement to be included in the local limits of the Shehara Municipality and thereby, by way of rejoinder, the case has been put forth that those resolutions are fake and bogus and signatures are forged by the Talali-cum-Mantri. It is pertinent to note that the said so-called forgery came into the knowledge of the petitioners atleast from 25th February 2026 the date on which the reply was filed and thereafter, it appears that there is no criminal proceeding



initiated for the so-called alleged forgery of signatures against any one.

SPECIAL CIVIL APPLICATION NO.1224 OF 2026:

[5] Challenge in the aforesaid petition is to the Notification dated 14th October 2025 issued by the Urban Development and Urban Housing Department, State of Gujarat, in exercise of powers, under Articles 243Q(2) with 243P(d) of the Constitution of India merging, *inter alia*, the areas of village Panchayat namely Variyal Gram Panchayat into local limits of Shehara Municipality of District Panchmahal.

SPECIAL CIVIL APPLICATION NO.5138 of 2026:

[6] Challenge in the aforesaid petition is to the Notification dated 4th October 2025 issued by the Urban Development and Urban Housing Department, State of Gujarat, in exercise of powers, under Articles 243Q(2) and 243P(d) of the Constitution of India merging, *inter alia*, various village panchayats namely Vega, Kajapur, Tarsana and Timbi into the local limits of Dabhoi Nagarpalika. The petitioners are the Ex-Sarpanch of the aforesaid



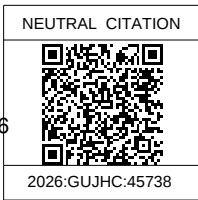
village panchayats.

[6.1] The principal grievance raised in the aforesaid petition is that the said villages are predominantly in rural in nature having agricultural economy, minimal non-agriculture activity and majority population belonging to the Scheduled Tribes and other economic weaker sections and thereby, the impugned Notification was published without considering objections and without any meaningful and effective consideration of the Gram Panchayats and without taking into consideration the parameters enumerated in the provisions of Article 243Q(2) of the Constitution of India.

SPECIAL CIVIL APPLICATION NO.758 of 2026:

[7] Challenge in the aforesaid petition is to the Notification dated 15th December 2025 issued by the Urban Development and Urban Housing Department, State of Gujarat, in exercise of powers, under Articles 243Q(2) with 243P(d) of the Constitution of India merging, *inter alia*, Sahij village panchayat within the local limits of the Kalol Municipality.

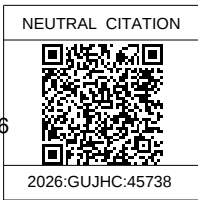
[7.1] Besides, the principal grievance that parameters



envisaged under the provisions of Article 243Q(2) of the Constitution of India are not considered objectively and no meaningful and / or effective consultation was ever undertaken with the Gram Panchayat, one more grievance voiced in the said petition is with regard to validity of the Resolution No.47 dated 10th December 2024 of Sahij Gram Panchayat consenting to the merger to the Kalol Nagarpalika at the instance of the Administrator and not by the elected body despite in between the body was duly constituted and opposed against the merger.

SPECIAL CIVIL APPLICATION NO.1115 of 2025:

[8] Challenge in the aforesaid petition is to the Notification dated 1st January 2025 issued by the Urban Development and Urban Housing Department, State of Gujarat, in exercise of powers, under Articles 243Q(2) with 243P(d) of the Constitution of India merging, *inter alia*, in all 6(six) Gram Panchayats within the local limits of Gandhidham Municipality, now, Gandhidham Municipal Corporation. Pertinently, out of 6 (six) Gram Panchayats, 4 (four) Gram Panchayats have accepted the said Notification, however, the

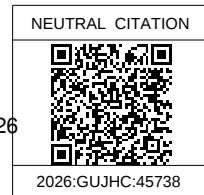


residents of 2 (two) village panchayats namely Antarjal and Shinay have approached this Court by way aforesaid petition with the principal grievance that parameters prescribed under Article 243Q(2) of the Constitution of India are not meaningfully and effectively considered and thereby, the said Notification under Article 243Q(2) published without following the statutory provisions, which ought to have been scrupulously followed.

SPECIAL CIVIL APPLICATION NO.1480 of 2025:

[9] Challenge in the aforesaid petition is to the Notification dated 25th September 2025 issued by the Urban Development and Urban Housing Department, State of Gujarat, in exercise of powers, under Articles 243Q(2) with 243P(d) of the Constitution of India merging, inter alia, various Gram Panchayats namely Padana, Chudva, Mithi Rohar, Khari Chehar and Bharapar in the local limits of Gandhidham Municipal Corporation.

[9.1] Being aggrieved by the aforesaid, the residents of village Padana have approached this Court with the principal grievance that the impugned Notification dated 25th September



2025 was published without following due procedure and specifically without effective and meaningful consultation of the Gram Panchayat.

SPECIAL CIVIL APPLICATION NO.14977 of 2025:

[10] Challenge in the aforesaid petition is to the Notification dated 9th September 2025 issued by the Urban Development and Urban Housing Department, State of Gujarat, in exercise of powers, under Articles 243Q(2) with 243P(d) of the Constitution of India merging, *inter alia*, Gram Panchayats namely Khalikpur Gram Panchayat, Sahiyar Gram Panchayat and Sabalpur Group Gram Panchayat which Palanpur, Sabalpur, Ganeshpur and Bajkot in the local limits of Modasa Municipality.

[10.1] Being aggrieved by the aforesaid, the Sabalpur Gram Panchayat has approached this Court by way of aforesaid petition with the principal grievance that Article 243Q(2) of the Constitution of India has not been followed in its letter and spirit.

SPECIAL CIVIL APPLICATIONS NOS.14145 of 2025, 14298 OF 2025, 14300 OF 2025 AND 14274 OF 2025:



[11] Challenge in the aforesaid petition is to the Notification dated 25th September 2025 issued by the Urban Development and Urban Housing Department, State of Gujarat, in exercise of powers, under Articles 243Q(2) with 243P(d) of the Constitution of India merging, *inter alia*, 10 (Ten) village Gram Panchayats namely Tavdia, Dela, Ucharpi, Virampura, Detrojpura, Rampura, Kukas, Rupal (Kukas), Hebuva and Shobhasan within the local limits of Mahesana Municipal Corporation.

[11.1] Being aggrieved, 4 (four) Gram Panchayats namely Della, Rampura, Hebuha and Subhasan have approached this Court by way of aforesaid petition with the principal grievance that the parameters under Article 243Q(2) of the Constitution of India were not followed and thereby, there was no meaningful and effective consultation with the elected body.

[12] All the captioned petitions are pending without any kind of interim relief, however, considering the common important and principal questions of law, with the consent and request of learned advocates appearing for the respective parties, the entire



batch of these petitions were heard extensively by this Court on various dates and is being decided by this common judgment.

[12.1] Pertinently, during all these petitions, election programme was declared on 1st April 2026 and voting was held on 26th April 2026 and thereafter, counting of votes scheduled and held on 28th April 2026 and final election was concluded on 30th April 2026. As stated hereinabove, all these petitions were pending without operation of any kind of interim relief right from its inception and also in some of the petitions, Civil Applications are filed subsequently seeking stay of implementation of the respective Notifications under Article 243Q(2) of the Constitution. Thus, no sooner the election was published on 1st April 2026, all the learned advocates appearing for the respective parties have consented for final hearing of main matters itself and thereby, the captioned petitions were heard finally on the main reliefs itself.

[13] Heard learned Senior Advocate Mr. Mihir Joshi assisted by learned advocate Mr. Dipan Desai; learned Senior Advocate Mr. Shalin Mehta assisted by learned advocate Mr. N. P. Chaudhary;



learned Senior Advocate Mr. Dhaval Vyas assisted by learned advocate Mr. Naman Brahmbhatt; learned advocate Mr. Harsh Raval for learned advocate Mr. Subodh Kumud; learned advocate Mr. P.V. Patadia for learned advocate Ms. Arti K. Bhil; learned advocate Mr. Bharat Rao; learned advocate Mr. B. Y. Mankad, learned advocate Mr. Hardik Raval and learned advocate Prakash Pandya appearing for their respective petitioners and learned Advocate General Mr. Kamal Trivedi assisted by learned Government Pleader Mr. G. H. Virk assisted by learned A.G.Ps. Ms. Dharitri Pancholi, Mr. Jay Barot, Mr. Vinay Bairagra for the respective respondents – State authorities; learned Senior Advocate Mr. Prakash K. Jani assisted by learned advocate Mr. Pravin Panchal for the respective respondent – Godhra Nagarpalika; learned advocate Mr. Deepak Sanchela; learned advocate Mr. Mehul Sharad Shah, learned advocate Mr. Kaash Thakkar, learned advocate Mr. U. M. Shastri; learned advocate Mr. Kamlesh Kotai, learned advocate Ms. Aishvarya and learned advocate Ms. Bhavna D. Acharya appearing for their respective respondents.



SUBMISSIONS OF LEARNED SENIOR ADVOCATE MR. MIHIR JOSHI (SPECIAL CIVIL APPLICATION NO.19474 OF 2023):

[14] Learned Senior Advocate Mr. Mihir Joshi assisted by learned advocate Mr. Dipan Desai for the petitioners, while assailing the respective impugned Notification under Article 243Q(2) read with Article 243P(d) of the Constitution of India, has made the following submissions:

[14.1] It is submitted that the impugned Notification is contrary to the judgment and order dated 9th March 2023 passed by this Court in Letters Patent Appeal No.1226 of 2022 as it does not disclose that it has been issued having regard to the factors prescribed under Article 243Q(2) of the Constitution of India, as specifically directed by this Court in earlier challenge in connection with an identical Notification purported to have been issued in exercise of powers under Article 243P(d) of the Constitution of India.

[14.2] It is submitted that as such there is no effective compliance and / or no regard to the factors prescribed under



Article 243Q(2) of the Constitution of India while issuing the Notification and thereby, the impugned Notification is legally defective in nature. It is further submitted that by way of affidavits filed during the proceedings, such defects cannot be cured. Because, said affidavits merely reproduced the datas without disclosure and / or without application of mind as to how such datas justified the declaration of villages as smaller urban areas. It is, therefore, fervently submitted that the entire exercise is contrary to the Article 243Q(2) of the Constitution of India, besides being manifestly arbitrary, more particularly, when similarly situated villages have been excluded. Thus, from the entire exercise under Article 243Q(2) of the Constitution of India, it does not reveal as to what were the parameters adopted while choosing some of the villages to be included and some of the villages to be excluded from merging into the local limits of Municipalities.

[14.3] It was contended that Article 243Q(2) of the Constitution of India obligates the State to evolve uniform parameters and thereafter, to consider the constitutional factors in the light thereof before issuing the Notification. The expression



“having regard to” necessarily imports due application of mind and not a mere collection or reproduction of datas.

[14.4] It is submitted that since the entire exercise undertaken by the respondents before issuing Notification under Article 243Q(2) of the Constitution of India and the data collected and relied upon mechanically, the process itself is manifestly arbitrary and thereby, judicial review of Constitution or a legislative exercise is permissible when the mandatory constitutional requirements have not been complied with.

[14.5] It is submitted that requirements and the parameters, as envisaged under Article 243Q(2) of the Constitution of India, deserve meaningful consideration. It is submitted that under Article 243Q(2) of the Constitution, the legislature has, with a loud intention, prescribed certain parameters to be considered and further giving liberty to the authorities to consider such other factors, as may be deemed fit. It is submitted that therefore, it means that a constitutional mandate is clear that while exercising powers under Article 243Q(2) of the Constitution of India, the



authorities have to not only consider the parameters prescribed but can consider any appropriate parameters or factors so that the entire exercise of powers will be based on effective and meaningful process. It is submitted that in the present case, the authorities have collected the datas only for the purpose to make a show that effective and meaningful consultation was undertaken, whereas, in fact, those collection of datas are nothing, but a predetermined stereotyped procedure adopted by the authorities. Thus, the Notification of merging Gram Panchayats into the Municipalities, be it a constitutional or a legislative exercise, is not in accordance with the mandate of the Constitution of India and thereby, deserves to be quashed and set aside.

[14.6] To substantiate the aforesaid contentions, learned Senior Advocate Mr. Joshi has placed heavy reliance on the decision in the case of **Champ Lal vs. State of Rajasthan reported in (2018) 16 SCC 356, Amarendra Kumar Pandey vs. Union of India and others reported in (2024) 15 SCC 401 and Mahalaxmi Sugar Mills Pvt. Ltd. vs. Union of India and others reported in (2009) 16 SCC 569.**



SUBMISSIONS OF LEARNED ADVOCATE MR. B. Y. MANKAD
(SPECIAL CIVIL APPLICATIONS NOS.15309 OF 2025, 15574 OF
2025 AND 16471 OF 2025):

[15] Learned advocate Mr. B. Y. Mankad for the petitioners, while assailing the respective impugned Notification under Article 243Q(2) read with Article 243P(d) of the Constitution of India, has made the following submissions:

[15.1] While raising principal contention with regard to non-compliance of mandate prescribed under Article 243Q(2) of the Constitution of India, without having any uniform benchmark criteria or standard, it was, additionally contended that the entire exercise undertaken by the authorities on the basis of resolutions dated 2nd October 2024 and 30th January 2025 itself is fabricated and it does not bear the genuine signatures of Sarpanch and stated to have been fabricated by the Talati without knowledge of the elected body. It is submitted that more particularly, by resolutions



dated 9th June 2025, 30th January 2025 and 9th February 2025 duly signed by the elected representatives, the proposed action of inclusion of Gram Panchayats is objected. Further, the said representation was not taken into consideration and the impugned Notification was passed or published on false and fabricated Notifications dated 2nd October 2024 and 30th January 2025. Thus, the impugned Notification stands vitiated on the basis of fundamental resolution purported to have been issued by the Gram Panchayat consenting inclusion.

[15.2] Before issuance of the impugned Notification dated 14th October 2025 declaring the petitioner's village as a part of smaller urban area of Shahera Municipality, the petitioner's Gram Panchayats were not given any opportunity of hearing nor the petitioners were included in effective and meaningful consultation process by overlooking the mandate of Article 243Q(2) of the Constitution of India. Therefore, it is prayed to quash and set aside the impugned Notification.

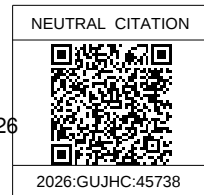
SUBMISSIONS OF LEARNED ADVOCATE MS. A. K. BHIL



(SPECIAL CIVIL APPLICATION NO.1224 OF 2026):

[16] Learned advocate Ms. A. K. Bhil for the petitioners, while assailing the respective impugned Notification under Article 243Q(2) read with Article 243P(d) of the Constitution of India, has made the following submissions:

[16.1] Learned advocate Ms. A. K. Bhil for the petitioners, while adopting the arguments and principal contention with regard to non-compliance of mandate contained in Articles 243Q(2) and 243P(d) of the Constitution of India, additionally, submitted that in view of the provisions under Article 244 read with the 5th Schedule of the Constitution, the said Notification could not have been issued without constituting or consulting the Tribal Advisory Council. Thus, the exercise undertaken under Articles 243Q(2) and 243P(d) of the Constitution of India renders itself unconstitutional in absence of any such consultation with the Tribal Advisory Council. It is submitted that major agriculture holding comprises restricted Tribal lands under the provisions of Section 73 of the Gujarat Land Revenue Code and thereby,



inclusion of those protected lands in the smaller urban area will have significance important and such factors, having not been considered by the authorities, would render the impugned Notification illegal and unconstitutional.

[16.2] It was lastly submitted that no valid resolution or consent of the Gram Panchayats was ever obtained and the consent relied upon by the respondents is merely a paper formality without meaningful consultation and without compliance of the mandate. It is submitted that the respondents have materially failed to consider the petitioner's socio-economic condition namely predominantly Tribal agriculturists depending upon the agriculture and forest produced for the livelihood and that has resulted into serious miscarriage of justice.

SUBMISSIONS OF LEARNED ADVOCATE MR. BHARAT RAO
(SPECIAL CIVIL APPLICATIONS NO.5138 OF 2026):

[17] Learned advocate Mr. Bharat Rao for the petitioners, while assailing the respective impugned Notification under Article 243Q(2) read with Article 243P(d) of the Constitution of India, has

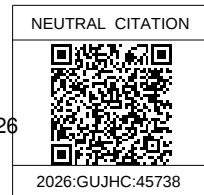


made the following submissions:

[17.1] It is submitted that the impugned Notification is contrary to the Article 243Q(2) of the Constitution of India inasmuch as it neither records nor demonstrates satisfaction of the essential constitutional parameters governing the declaration of a transitional or a small urban areas including the level of urbanization, extent of non-agricultural activities and economic importance of the subject villages.

[17.2] It was submitted that the exercise undertaken under Article 243Q(2) of the Constitution stands vitiated for want of meaningful consultation with the concerned Gram Panchayats as a categorical objections and the resolutions passed by the Gram Sabhas opposing the proposed inclusion have been completely ignored.

[17.3] It was contended that the decision is actuated by the political consideration rather than objective constitutional criteria and therefore, suffers from *mala fides* and constitutes a colourable exercise of powers.



[17.4] It was submitted that the Dabhoi Nagarpalika itself lacks inadequate infrastructures and financial capacity to provide basic civic amenities within its existing municipal limits and therefore, the decision to further expand its jurisdiction is irrational against the public interest. Inclusion would also impose undue tax burden upon the economic and rural residents which would result into serious civil consequences that too without affording them an opportunity of hearing.

SUBMISSIONS OF LEARNED SENIOR ADVOCATE MR. DHAVAL VYAS (SPECIAL CIVIL APPLICATION NO.758 OF 2026):

[18] Learned Senior Advocate Mr. Dhaval Vyas assisted by learned advocate Mr. Naman Brahmbhatt for the petitioners, while assailing the respective impugned Notification under Article 243Q(2) read with Article 243P(d) of the Constitution of India, has made the following submissions:

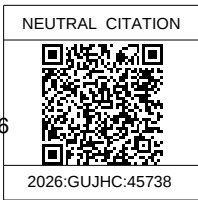
[18.1] It was submitted that Section 7(2) of the Gujarat Panchayats Act mandates consultation with the elected Gram



Panchayat constituted under Section 9 before any recommendation for inclusion, exclusion or cesser of a village is made. It is, therefore, submitted that such consultation cannot be substituted by consultation with an Administrator which is merely a temporary appointee of the Government.

[18.2] It was further submitted that requirement of consultation is mandatory and must be meaningful. A strong reliance is placed on the law laid down by the Hon'ble Apex Court in the petitioner's own case reported in **1999(2) SCC 366**, wherein it has been held that consultation with the elected Gram Panchayat constitutes the mode of obtaining the views of the residents. Thus, such consultation cannot be reduced to empty formality or dispensed with for any kind of administrative convenience.

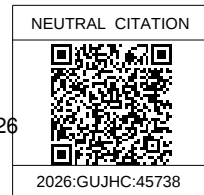
[18.3] It was contended that recommendation of cesser of Sahij village and its inclusion in Kalol Nagarpalika was admittedly made on 16th October 2025 and forwarded on 17th October 2025. Admittedly, elected body of Sahij Gram Panchayat was constituted on 25th June 2025. Thus, any recommendation,



having been made without consultation with the elected body, is contrary to the provisions of Section 7(2) of the Gujarat Panchayats Act and stands vitiated.

[18.4] It was submitted that Article 243Q(2) of the Constitution of India obligates the Government to exercise powers having regard to the constitutional factors specified therein. Therefore, expression “having regard to” requires consideration of all the enumerated factors along with other consideration. In absence of any such compliance, Notification stands contrary to the mandate of the Constitution of India and therefore, deserves to be quashed and set aside.

[18.5] It was contended that from the communications dated 16th October 2025 and 17th September 2025, it appears that recommendation was founded only on the perceived urbanization of the area and inability of the Gram Panchayat to provide water supply and sewage facility. However, no consideration of any factors prescribed under Article 243Q(2) of the Constitution appears to have ever taken into consideration. Under the



circumstances, the entire decision making process, in exercise of powers under Article 243Q(2) of the Constitution of India, does not withstand with the mandate of the Constitution of India and thus, would certainly be amenable to the judicial review of this Court under Article 226 of the Constitution of India.

SUBMISSIONS OF LEARNED ADVOCATE MR. HARDIK RAWAL
(SPECIAL CIVIL APPLICATION NO.1115 OF 2025):

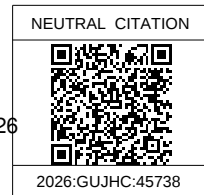
[19] Learned advocate Mr. Hardik Rawal for the petitioners, while assailing the respective impugned Notification under Article 243Q(2) read with Article 243P(d) of the Constitution of India, has made the following submissions:

[19.1] It was submitted that the impugned Notification and the entire decision making process are arbitrary, unconstitutional and vitiated by non-application of mind being violative of Article 243Q(2) of the Constitution. It was contended that the Notification considers only three out of five mandatory factors prescribed under Article 243Q(2) namely population,



population density and economic importance while completely ignoring consideration of revenue generated for local administration and the percentage of unemployment of non-agriculturists. It was therefore submitted that the same being contrary to the law laid down by the Hon'ble Apex Court in the case of **Champa Lal v. State of Rajasthan reported in (2018) 16 SCC 356.**

[19.2] It was further submitted that the State has neither framed nor applied any uniform policy or objective benchmark for evaluating the factors under Article 243Q(2) of the Constitution as mandated in **Champa Lal (supra)**. It was further submitted that the constitutional requirements cannot be supplemented or cured by way of affidavits in view of the principles enunciated in the case of **Mohinder Singh Gill vs. Chief Election Commissioner, New Delhi reported in 1978 (1) SCC 405**. Learned advocate Mr. Rawal fervently submitted that the decision rendered by the Hon'ble Apex Court in the case of **State of Rajasthan vs. Ashok Khetoliya reported in 2022 (12) SCC 185** does not dilute the ratio of **Champa Lal (supra)**. It was submitted that in any event, where

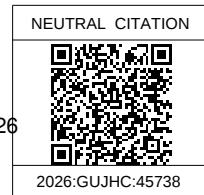


there are conflicting decisions of co-equal Benches, the decision rendered by the earlier Bench is binding and the same is now explained in Union Territory of Ladakh vs. Jammu and Kashmir reported in 2024 (18) SCC 343 and the Constitutional Bench decision in the case of **National Insurance Company Ltd vs. Pranay Shetty** reported in 2017(6) SCC 680.

SUBMISSIONS OF LEARNED ADVOCATE MR. PRAKASH PANDYA (SPECIAL CIVIL APPLICATION NO.14809 OF 2025):

[20] Learned advocate Mr. Prakash Pandya for the petitioners, while assailing the respective impugned Notification under Article 243Q(2) read with Article 243P(d) of the Constitution of India, has made the following submissions:

[20.1] It was contended that while publishing the Notification under Article 243Q(2) of the Constitution of India, mandatory requirement was not complied with and thereby, impugned Notification issued, without examining the constitutional parameters, would not withstand within the four corners of law.

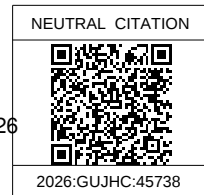


[20.2] It was submitted that the village Padana originally formed part of Anjar Taluka and came within the Gandhidham Taluka only upon creation of 1997 and 1998. After four of the nine villages of the Gandhidham Taluka were included in the Municipal Corporation w.e.f. 1st January 2025, only five villages remained. It was pointed out that village Padana is not contiguous with the existing limit of Municipality as Mithi Rohar and Chudva lies within Gandhidham and Padana, which itself demonstrates arbitrary action of inclusion of village Padana.

SUBMISSIONS OF LEARNED ADVOCATE MR. SUBODH KUMUD
(SPECIAL CIVIL APPLICATION NO.14977 OF 2025):

[21] Learned advocate Mr. Subodh Kumud for the petitioners, while assailing the respective impugned Notification under Article 243Q(2) read with Article 243P(d) of the Constitution of India, has made the following submissions:

[21.1] It was submitted that the impugned Notification is vitiated in absence of any uniform policy or objective benchmark

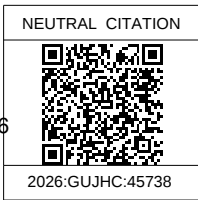


for evaluating the parameters prescribed under Article 243Q(2) of the Constitution and contrary to the law laid down by the Hon'ble Apex Court in the case of **Champa Lal (supra)**.

[21.2] The entire exercise undertaken by the authorities smacks of arbitrariness and colourable exercise of powers inasmuch as the Notification is founded incorrect and unsupported statistics including erroneous particulars relating to area, population density, percentage of persons engaged in the non-agriculture activities and the nature of agriculture lands.

SUBMISSIONS OF LEARNED SENIOR ADVOCATE MR. SHALIN MEHTA (SPECIAL CIVIL APPLICATIONS NOS.14145 of 2025, 14274 OF 2025, 14298 OF 2025 AND 14300 OF 2025):

[22] Learned Senior Advocate Mr. Shalin Mehta assisted by learned advocate Mr. N. P. Chaudhary for the petitioners, while assailing the respective impugned Notification under Article 243Q(2) read with Article 243P(d) of the Constitution of India, has made the following submissions:

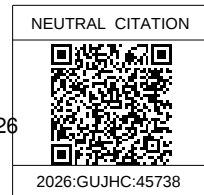


[22.1] It was submitted that recommendation for inclusion of village or cesser of local area to be a village can be made after consultation with the village panchayat. Consultation with the village panchayat can only be done with the panchayat constituted under Section 7 of the Gujarat Panchayats Act. It was submitted that consultation would only be meaningful and effective after the same is done with the elected body.

[22.2] It was submitted that right of any citizen to be heard or to object against inclusion or exclusion or cesser any area is to be considered meaningfully and via consultative process with the elected body.

[22.3] It was submitted that the consultation of village panchayat, which has been duly constituted by way of a democratic process and being conferred constitutional status, has to be meaningful and effective and cannot be empty formality.

[22.4] In view of Article 243Q(2) of the Constitution, parameters stated therein, have to be mandatorily considered with creating benchmark criteria so as justify inclusion or exclusion of



any village which reflects the entire process transparent, meaningful, logical and rational.

SUBMISSIONS OF LEARNED ADVOCATE GENERAL MR. KAMAL TRIVEDI FOR THE RESPONDENTS – STATE AUTHORITIES:

[23] *Per contra*, learned Advocate General Mr. Kamal Trivedi assisted by learned Government Pleader Mr. G. H. Virk with learned A.G.Ps. Ms. Dharitri Pancholi with Mr. Jay Barot with Mr. Vinay Bairagra for the respondents – State authorities, while supporting the respective impugned Notifications, has made the following submissions:

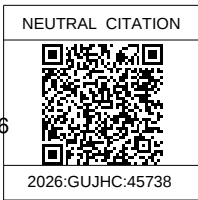
[23.1] At the outset, it was vehemently submitted that issuance of impugned Notifications under Article 243Q(2) of the Constitution of India is a constitutional and legislative exercise being undertaken by the State authorities and thereby, as such any such exercise, there is no room for consent, to offer hearing and / or consultation requirement. It was submitted that Article 243Q(2) of the Constitution does not specifically lay down any such requirement of obtaining consent, to offer hearing and / or



undertake consultation with the Gram Panchayat. It is therefore submitted that the fundamental contention with regard to consultative process itself falls flat on the ground. At the best, the consultation can be said to be directive and not the mandatory. Therefore, present petitions deserve to be dismissed.

[23.2] It was next submitted that relying upon the provisions of Article 243Q(2) of the Constitution, no provision is made therein with regard to setting up a benchmark standard and / or any kind of criteria with regard to factors those are to be considered. Thus, it was fervently submitted that addition of any kind of benchmark of any of the criteria prescribed under Article 243Q(2) would be amounting to supplant the words those are not specifically incorporated. Under the circumstances, it was submitted that it is a duly legislative wisdom left upon the State authorities to consider the parameters which are relevant for the purpose of taking any decision and issuing Notification under Section 243Q(2) of the Constitution of India.

[23.3] It was submitted that “consultation” was



prescribed under the erstwhile Sections 4 and 4A of the Gujarat Municipalities Act, 1963, however, pursuant to amendment in the year 1993, Sections 4 and 4A were deleted and thereby, requirement of consultation, while declaring or altering the limits of any Municipality, came to be dispensed with. Thus, the area of Municipal borough under Section 4 of the Gujarat Municipalities Act, 1993 came to be changed under Article 243Q(2) of the Constitution read with Section 2(15) of the Gujarat Municipalities Act followed by a resolution under the provisions of Section 5(2) of the Municipalities Act and while doing so, the consultative process envisaged prior to declaration or alteration of municipalities has been given completely go-bye. In that view of the matter, it was vehemently submitted that no petitioner has got any statutory right claiming consultation much less effective in nature.

[23.4] It was next submitted that even otherwise there was exchange of views between different departments, as can be seen from the files produced on record and thereby, it can very well be said that due consultation was made prior to taking any decision and issuing Notification under Article 243Q(2) of the Constitution



of India. It was next submitted that the provision of Section 7 of the Gujarat Panchayats Act would only be applicable in cases of any Notification under Section 243(g) read with Section 255 of the Gujarat Panchayats Act requires to be issued. It was further submitted that Section 7 of the Panchayats Act would only be applicable when any local area sought to excluded, included and / or cesser of any local area to be a village and thereby, while issuing Notification under the provision of Section 243Q of the Constitution, consultation, as envisaged under Section 7(2) of the Panchayats Act, would never arise. It was the submitted that publication of Notification under Section 243Q(2) is altogether a distinct and independent provision with regard to constitution of Municipality and thus, in exercise of powers under Section 243Q, if the village panchayats are to be merged within the local limits of Municipality, no consultative process with the village panchayat and / or with its residents is required. Thus, consultation is not mandatory in case of village merges with Municipality.

[23.5] Without prejudice to the aforesaid contentions, learned Advocate General also pressed into service an alternative

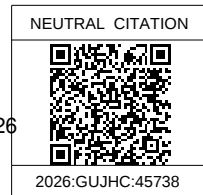


submission that even otherwise, the provision of Article 243Q(2) would not be applicable and it is a Notification said to be under Section 243P(d) of the Constitution of India. It was submitted that as such by way of impugned Notification, there is no constitution of new Nagarpalika and therefore, the provision of Article 243Q(2) would only come into play in case of constitution of a new Municipality. In the instant case, village panchayats were sought to be merged with already duly constituted Municipalities and the same was done by the authorities by virtue of powers under Section 243P(d) of the Constitution of India.

[23.6] By making aforesaid submissions, it is prayed to dismiss the petitions.

SUBMISSIONS OF LEARNED SENIOR ADVOCATE MR. PRAKASH JANI FOR THE RESPECTIVE RESPONDENT – GODHRA NAGARPALIKA:

[24] Learned Senior Advocate Mr. Prakash Jani assisted by learned advocate Mr. Pravin Panchal for the respective respondent – Godhra Nagarpalika, while adopting all the contentions of



learned Advocate General Mr. Kamal Trivedi for the respondents – State authorities, has made the following submissions:

[24.1] It was submitted that the entire process before issuance of Notification under Section 243Q(2) of the Constitution of India was followed by the State authorities inasmuch as in the entire process, the Chief Officers of the Nagarpalika, District Collectors and District Regional Commissioners of Municipalities, all have provided necessary inputs / datas and thereby, after having been taken into consideration of such inputs and datas, recommendation of various Government Departments, a considered decision was taken and then, Notification under Section 243Q(2) of the Constitution of India was issued, thereby, viewing from any angle, it cannot be said to be faulty on any count.

[24.2] It was next submitted that Special Civil Application No.19474 of 2023 is pending since 2023 without operation of any stay and as such the Notification in question was implemented by extending civic facilities, creation of new electoral votes, preparing voters lists and even the entire datas with regard



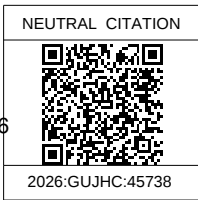
to birth and death of the panchayats have been transferred, in that event, more particularly, when the election programme is scheduled and on the verge of completion, at this stage, this Court may not entertain present petition by way of its prerogative writ jurisdiction under Article 226 of the Constitution of India, more particularly, when equities have been created.

SUBMISSIONS OF LEARNED GOVERNMENT PLEADER MR. G.

H. VIRK FOR THE RESPECTIVE RESPONDENTS:

[25] Learned Government Pleader Mr. G. H. Virk for the respective respondents, at the outset, has produced a photocopy of original files of the State authorities so as to persuade this Court that necessary exercise before issuance of Notification under Article 243Q(2) of the Constitution of India was undertaken and due consideration of all the parameters were looked into.

[25.1] It was submitted that Article 243Q(2) of the Constitution of India does not mandate that each and every factors mentioned therein should be considered. It was submitted that use of words “or such other factors” in the Article 243Q(2) clearly



states that any single factor or more than one factor referred to therein or such other factors as may be deemed fit may be taken into consideration before including any Gram Panchayat in the Municipality. Relying upon the original files, learned Government Pleader Mr. Virk vehemently submitted that the State Government has considered all the factors expressly referred to in the Article 243Q(2) of the Constitution of India before issuing the impugned Notifications, thereby, present petitions deserve no consideration and be dismissed accordingly.

[25.2] It was submitted that the impugned Notifications cannot be said to be illegal merely because it does not refer to any factors referred in the Article 243Q(2) of the Constitution as the same deserves to be considered as the same were issued in exercise of powers under Section 5 of the Gujarat Municipalities Act, 1993.

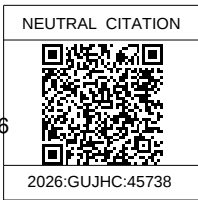
[25.3] It was submitted that the impugned Notifications are issued by the State authorities in exercise of their constitutional as well legislative powers pursuant to Article 243Q(2) of the Constitution read with Section 2(13) and Section 5(3) of the



Gujarat Municipalities Act, 1993. Thus, decision taken by the State authorities, in exercise of constitutional as well as legislative powers, cannot be normally be subjected to judicial review under Article 226 of the Constitution of India.

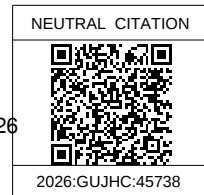
[25.4] Relying upon the decision of the Hon'ble Apex Court in the case of **State of Rajasthan vs. Ashok Khetoliya (supra)**, it was contended that a separate Notification under Article 243Q(2) is neither contemplated nor required and that Notifications issued under Section 5(2) of the State enactment is valid so long as it is not in consistence with Part - IXA of the Constitution. Consequently, the impugned Notification cannot be invalidated and merely because it does not expressly referred to the factors under Article 243Q(2) as it constitutes a constitutional as well as statutory exercise.

[25.5] It was next submitted that Section 7 of the Gujarat Panchayats Act applies only in case of inclusion or exclusion area of village and has no application to alteration of Municipalities limits. It was next submitted that reliance placed by



the petitioners in case of **Champa Lal (supra)** is misplaced in view of the subsequent decision in **Ashok Khetoliya (supra)**, which clarifies that part – IXA of the Constitution does not envisage issuance of a separate Notification under Article 243Q(2) of the Constitution.

[25.6] It was submitted that the impugned Notifications were preceded by an administrative exercise, including the proposal of Municipal Commissioners, Administrators, check lists containing the particulars of Article 243Q(2) factors and several opinions of Municipalities, Collectors, Regional Commissioners. Thus, the entire exercise was undertaken by the State authorities within the four corners of law and each and every factors were considered, the same may be varied from case to case, but overall due consideration was given and thereby, Notifications cannot be said to be arbitrary nor colourable exercise of powers. Lastly, it was submitted that expression of words “having regard to” merely require consideration of relevant factors and not the recital in the Notifications itself. The decision making process and the application of mind are borne out from the official records and



file's notings, which are permissible to be relied upon. Thus, the entire exercise undertaken by the State authorities may not be said to be faulty from any angle and therefore, present petitions deserve to be dismissed.

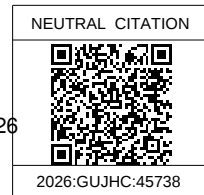
[26] Heard learned advocates appearing for the respective parties and have gone through the material produced on record. No other and further submissions have been canvassed by learned advocates appearing for the respective parties, except what are stated hereinabove.

[27] Having heard the learned advocates appearing for the respective parties and having gone through the material produced on record, following questions of law arise for consideration of this Court:

- (i) Whether, the impugned Notifications are invalidated on the ground of arbitrariness, non-application of mind and / or no effective compliance to the factors prescribed under Article 243Q(2) of the Constitution of India?



- (ii) Whether, the scope of judicial review over the Notifications issued under Section 243Q(2) of the Constitution of India extends to examine the existence and adequacy of material considered by the State or is confined only to testing the legality of the decision making process?
- (iii) Whether, consultation with an Administrator, vitiates the impugned exercise of issuance of Notifications under Article 243Q(2) of the Constitution of India in view of the provision of Section 7(2) of the Gujarat Panchayats Act, which specifies consultation with an elected Gram Panchayat?
- (iv) Whether, after constitution of municipal area pursuant to Notifications issued under Article 243Q(2) of the Constitution of India, completion of electoral process, assumption of office by the elected representatives and commencement of municipal administration, this Court ought to have exercised the writ jurisdiction to quash



the foundational Notifications?

AND / OR

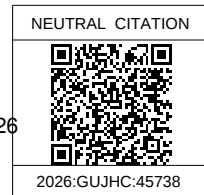
- (v) Whether, every violation of Article 243Q of the Constitution of India necessarily warrants quashing of the Notifications, or whether, the Court may, in the peculiar facts and in view of the equity created after constitution of Municipality and completion of election, declines to interfere?

[28] So as to decide the aforesaid questions of law, analysis of legal provisions can be in two parts: (I) relating to formation or constitution of Municipalities, and (II) constitution of Village Panchayat. Firstly, this Court would consider the provisions relating to Municipalities. **Article 243Q(2)** of the Constitution of India reads thus:

“243Q. Constitution of Municipalities.

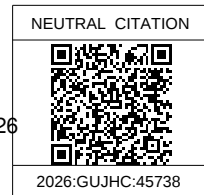
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(2) *In this article, 'a transitional area', 'a smaller urban area' or 'a larger urban area' means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local*



administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.”

[28.1] A plain reading of the aforesaid provision indicates that Article 243Q primarily envisages the constitution of Municipalities in every State, which may be classified into different categories of local areas, namely, a transitional area (Nagar Panchayat), a smaller urban area (Municipal Council), or a larger urban area (Municipal Corporation). The significance, however, lies in Article 243Q(2), which empowers the Governor to specify, by public notification, any area as a transitional area, a smaller urban area, or a larger urban area, having regard to factors such as the population of the area, the density of population, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance of the area, and such other factors as may be considered appropriate. Thus, Article 243Q(2) is essentially a provision dealing with the constitution and classification of municipal areas. Significantly, the said provision does not prescribe any procedural requirement of



consultation before the exercise of such power.

[29] **Article 243P(d)** of the Constitution of India reads thus:

“243P. Definitions

In this Part, unless the context otherwise requires,--

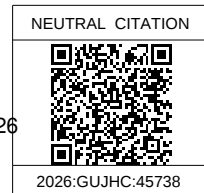
... ..

(d) 'Municipal area' means the territorial area of a Municipality as is notified by the Governor;”

[29.1] Under Part – IXA of the Constitution of India, Article 243P(d) of the Constitution of India defines “municipal area”. It means the territorial area of municipality as is notified by the Governor. Thus, once constitution of any municipality takes place after the process under Article 243Q of the Constitution of India and Notification is issued, then under Article 243P(d) of the Constitution of India would come into play.

[30] Section 5 of the Gujarat Municipalities Act, 1963 reads thus:

“5. Incorporation of Nagar Panchayat and Municipal Council. - (1) In every transitional area there shall be a



Nagar Panchayat and every such Nagar Panchayat shall be a body corporate by the name of "the Nagar Panchayat" and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name through its chief officer.

(2) In every small urban area there shall be a Municipal Council and every such Municipal Council shall be a body corporate by the name of "the Municipal Council" and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name through its chief officer."

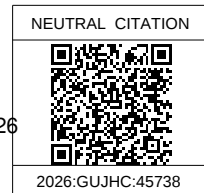
[31] Article 243B of the Constitution of India reads thus:

"243B. Constitution of Panchayats. - (1) *There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.*

(2) Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs."

[32] **Article 243(g)** of the Constitution of India reads thus:

"243. Definitions.- *In this Part, unless the context otherwise requires,-*



... ..

(g) “village” means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.”

[32.1] As per Part – IX of the Constitution of India, under heading “The Panchayats”, Article 243(g) of the Constitution of India defines “village”. A “village” means a village specified by the Governor in a public Notification to be a village.

[33] Section 7(2) of the Gujarat Panchayats Act, 1993 reads thus:

“7. Recommendation Specification of village –

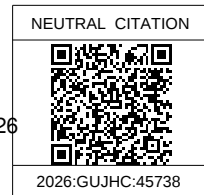
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(2) After consultation with the taluka panchayat, the district panchayat and village panchayat concerned (if already constituted), the competent authority may at any time recommend inclusion within or exclusion from any villages any local area or otherwise alternation of limits of any village, or recommend cesser of any local area to be a village, to the Governor for exercise of his powers under clause (g) of article 243 of the the Constitution.”



[33.1] A plain reading of the aforesaid provision reveals that it is a foundational statutory provision governing the specification, alteration and cesser of a village for the purposes of Part IX of the Constitution of India. The provision comprises two distinct parts. The first part, embodied in Section 7(1), authorises the competent authority, after conducting such inquiry as may be prescribed, to recommend that a revenue village, a group of revenue villages, or a hamlet forming part of a revenue village be specified as a village for the purposes of Part IX of the Constitution, subject to the prescribed population criteria. Thus, Section 7(1) of the Gujarat Panchayats Act, 1993 is concerned with the initial constitutional identification and specification of a village.

So far as the second part is concerned, Section 7(2) of the Gujarat Panchayats Act deals with subsequent territorial modifications. It empowers the competent authority, after consultation with the Taluka Panchayat, the District Panchayat and the Village Panchayat concerned (where already constituted), to recommend to the Governor the inclusion of any local area within a village, the alteration of the limits of a village, or the cessation of



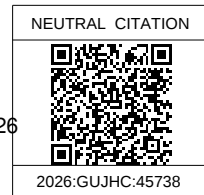
any local area as a village for the purposes of Part IX of the Constitution of India. In essence, Section 7(2) governs situations where the territorial identity of an existing village is proposed to be modified or extinguished.

The consultation contemplated under Section 7(2) constitutes a statutory safeguard intended to ensure that the institutions of local self-government are afforded an opportunity to express their views before any alteration of their territorial jurisdiction or before their very existence is brought to an end. Thus, Section 7 provides the statutory mechanism for giving effect to the constitutional scheme contained in Part IX, including Article 243(g), which defines the expression “village”, and operates even in cases where the alteration or cessation is ultimately effected by the Governor through a public notification.

[34] **Article 244** of the Constitution of India reads thus:

“244. Administration of Scheduled Areas and Tribal Areas

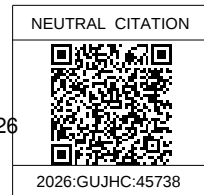
(1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and



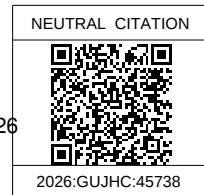
Scheduled Tribes in any State other than the States of Assam Meghalaya, Tripura and Mizoram.

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the state of Assam, Meghalaya, Tripura and Mizoram.”

[34.1] A plain reading of the aforesaid provision indicates that Article 244 of the Constitution of India is a beneficial constitutional provision intended to secure special protection for Tribal communities. It seeks to preserve tribal autonomy, safeguard tribal lands from alienation, and ensure the effective implementation of the constitutional protections envisaged for Scheduled Tribes. In essence, Article 244 provides the constitutional framework for the administration of Scheduled Areas and Tribal Areas. It is an enabling provision which gives effect to the Fifth Schedule and the Sixth Schedule to the Constitution and extends special constitutional protection to Tribal communities by recognising their distinct social, cultural and geographical characteristics.



[35] Keeping in mind the aforesaid provisions of law, it is, at this stage, also relevant to take note of decisions of this Court as well as the Hon'ble Apex Court governing the field. At the outset, the Coordinate Bench of this Court in the case of **Karodiya Village Panchayat through Sarpanch vs. State of Gujarat [Special Civil Application No.7002 of 2020 and allied petitions decided on 7th May 2021]**, wherein by way of Notification under Article 243Q of the Constitution of India, the Government included many village panchayats within the municipal limits of Vadodara Municipal Corporation. Upon being challenged the same Notification, the Coordinate Bench of this Court, while dismissing the petition, held, *inter alia*, that issuance of Notification under Article 243Q is primarily a policy and legislative decision of the State Government and thereby, the judicial review therein is confined to examining whether prescribed statutory procedure is followed, affected parties were given an opportunity to object where required and the decision is free from arbitrariness or *mala fides*. It has been further held that once the Government considers the constitutional factors under Article 243Q of the Constitutional of India and follows due



process, the Court will ordinarily not interfere merely because residents or Gram Panchayats opposed the same.

[36] Similar issue with regard to merger of village into the municipality arose before this Court in the case of **Dharampur Gram Panchayat vs. State of Gujarat [R/Special Civil Application No.14077 of 2020 decided on 22nd January 2021]**. The Coordinate Bench of this Court, while holding the Notification, observed that meaningful consultation, as envisaged under Section 7(2) of the Gujarat Panchayats Act, had taken place. This Court further held therein that while consultation must be effective and genuine, it does not require Panchayat's consent. This Court has also held that the State Government retains the final authority to alter municipal or village boundary after consultation and reorganization of local activities is a legislative / policy function where the Court will have very limited scope of interference, mainly, on the ground of illegality, procedural law compliance and / or arbitrariness and / or mala fides.

[37] The Full Bench of this Court in the case of **Pruthvisinh**



Amarsinh Chauhan vs. K. D. Rawat reported in 2004 SCC

Online Gujarat 47, more particularly, paragraphs Nos.10, 10.1, 10.2, 10.3, 11, 12, 13, 13.1 and 16 has held and observed as under:

“10. The next point that is required to be considered by us is whether there is any conflict between the ratio decidendi emerging from Nathabhai's case and from the case of Likhi Group of Gram Panchayat.

10.1 We have given a close scrutiny to both the cases. In the case of Nathabhai (Supra), the Division Bench, after referring to Kalubhai Vs. State of Gujarat, 65 GLR 459, observed that in the said decision Section 9 Subsection (2) of the Old Act is pari-materia with Section 7 Subsection (2) of the New Act is directory and not mandatory. The Division Bench held that Section does not prescribe what consequences would follow if prior consultation is not made before taking an action under the said Section. The Division Bench, ultimately, held and observed "...it appears that the provision is directory and although it does not indicate a duty to consult Panchayat before passing an order under the Section, but, it does not follow that every departure from that duty will taint the whole proceedings with a fatal blemish and render it void and ineffective".

10.2 Making observations on factual aspect of the case, the Division Bench in Para.9 of the judgment observed, thus :

"In the case, on basis of the material which was before the Government and the representation made by the Bavala Nagar Panchayat, the Government had on 24-12-1990, taken a decision not to accept the proposal for bifurcation of Bavala Nagar Panchayat. If it had been a case of mere consideration of the material which was already there and in respect of which the concerned Panchayat was already consulted earlier, then it could

have been said that it was not necessary to consult it again. But it is an admitted position that fresh material was placed before the Government after 24-12-1990. For making consultation effective and real the Government ought to have disclosed the new material to the Panchayat and ascertained its view thereon. No reason has been pointed out for not doing that. It is also not pointed out that if the action of the Government is regarded as invalid, it would be prejudicial to public interest. Therefore, the impugned action of the Government will have to be regarded as arbitrary and thus liable to be declared as invalid".

10.3 Thus, according to the Division Bench, in the case of Nathabhai (supra) as the decision of the Government founded on fresh material was without consultation and therefore, although the requirement of consultation was not mandatory, the decision was held to be invalid. No reason was indicated by Government for not undertaking the exercise of consultation. The ratio decidendi therefore is that requirement of consultation is not mandatory and is directory. However, the consultation has to be effective and real, and for making it effective and real, the new material considered by Government ought to have been disclosed to the Panchayat and ascertained its view.

11. In the case of Likhi Group Gram Panchayat (supra) also the Division Bench held that requirement of Section 9(2) of the Old Act is not mandatory. What is required is the consultation and not consent or concurrence. Before that Bench, it was also argued that the Development Commissioner has turned down the proposal for division / bifurcation and thereafter, without consultation of the Gram Panchayat or Taluka Panchayat, a different view was taken to bifurcate the Panchayat. The Division Bench observed that looking at the resolution, it was clear that there was no mala fide on part of the Development Commissioner in issuing the Notification. Earlier there was consultation and this different view was taken within a short time and therefore, the Division Bench observed that if



ultimately the Development Commissioner has issued Notification within such a short period, it cannot be said that within such a short period further consultation was required. The Division Bench relied on Kalubhai's case that a duty to consult Panchayat before passing an order under Section does not necessarily mean that every departure from their duty will take the whole proceedings with a fatal damage and render it void and ineffective. Thus, the Division Bench, in the facts of that case found that there was no much lapse of time and non-consultation did not affect the decision.

12. What emerges from these two judgments therefore is that in case of Nathabhai, the Division Bench found that as the decision was taken on fresh material, earlier consultation would not be effective or real. Whereas in the case of Likhi Group of Gram Panchayat there was no fresh material, there was no change in circumstance and the time lag was so narrow that the Division Bench, probably, felt in the facts of the case that fresh consultation was not required. Both the decisions concurred on the aspect that requirement of consultation is not mandatory, but, is directory. The decision taken in both the cases in respect of further consultation were based on facts of those cases and in our opinion, as such, there is no conflict between the ratio laid down in the two decisions.

13. The third point that requires consideration by virtue of the reference is whether the Government can issue Notification without again consulting the Panchayat as per the requirement of Section 7(2) of the New Act.

13.1 As discussed above, though the requirement of consultation is not mandatory and is directory, in our opinion, it cannot be given a total go-bye to it. Since the Legislature in its wisdom has incorporated this provision, it has to be given its due importance. It is true that in other case non-compliance would not vitiate the decision, valid reasons therefore have to be indicated. The object behind the enactment has to be saluted. The affected party must have an opportunity to express its



opinion and view on he proposed decision. The term is used as a consultation and it cannot be, by any stretch of imagination , taken as concurrence or consent and therefore, after consultation a decision may be taken by the Government.

* * *

16. In view of the above discussion, the points for our determination are answered as under :

(i) The term 'Consultation' has to be taken as an effective and meaningful and genuine consultation and not a formality.

(ii) There is no conflict between the ratio laid down in the case of Nathabhai (supra) and Likhi Group Gram Panchayat (supra). The conclusions are based on fact of each case, but, there is no conflict in the ratio.

(iii) If proposal has culminated into a decision, fresh exercise of consultation would be necessary before taking a fresh decision. We may reiterate that the consultation is not mandatory and every departure therefrom may not render it void or ineffective, but, the provisions of law has to be saluted in its spirit and exercise of consultation should be undertaken.”

[38] It would be relevant to take notice of the decision of the Hon’ble Apex Court in the case of **Champa Lal (supra)**, more particularly, the relevant observations made in paragraphs Nos.8, 9 and 10, which read thus:

“8. It, therefore, appears from the scheme of Article 243Q(2)

that the Governor is not free to notify 'AREAS' in his absolute discretion but is required to fix the parameters necessary to determine whether a particular AREA is a transitional area or a smaller urban area or a larger urban area with due regard to the factors mentioned above. It is implicit that such parameters must be uniform for the entire State. It is only after the determination of the parameters, various municipal bodies contemplated under Article 243Q(1) could be constituted.

9. *In response to a specific query whether any notification contemplated under Article 243(Q)(2) had been issued by the State of Rajasthan, Mr. Guru Krishnakumar learned senior counsel appearing for the State of Rajasthan, produced two notifications dated 4.7.1995 and 30.4.2012. On a plain reading of both the notifications, it appears that these notifications had been issued in exercise of the statutory powers conferred on the State Government by two different enactments known as "The Rajasthan Municipality Act, 1959 (since repealed) and the Rajasthan Municipalities Act, 2009. Apart from the declaration regarding the source of power for the issuance of these notifications to be authority conferred by the various provisions of the above mentioned two enactments, it appears from the tenor and scheme of the notifications that these notifications purport to classify municipalities only on the basis of population. The various other parameters to which regard is required to be had under Article 243Q(2) were not taken into consideration for the purpose of classification made under the above mentioned two notifications. Therefore, in our opinion, these two notifications cannot be treated as notifications contemplated under Article 243(Q)(2).*

10. *In the absence of any notification which meets the requirements of Article 243Q(2), the entire exercise undertaken by the State of Rajasthan in upgrading the Napasar village Gram Panchayat to be a Nagarpalika – [that is equivalent to Nagar Panchayat as mentioned in Article 243Q(1)(a)] is unconstitutional as it is inconsistent with the requirements of the Constitution under Article 243Q of the Constitution of*

India. Therefore, the initial notification dated 6.10.2008 itself is unsustainable. Unfortunately, this aspect has not been noticed by the High Court obviously because it was not brought to the notice of the High Court. The fact that a litigant before the court does not point out the relevant principles and provisions of law does not prevent the court from examining the issues involved in the lis, more particularly, when the process which is the subject matter of litigation before the court is inconsistent with the mandate of the Constitution. It is a settled principle of law that courts are bound to take note of the constitution and the laws. [S. C. Prashar v. Vasantsen Dwarkadas AIR 1963 SC 1356]”

[38.1] On perusal of the aforesaid decision in **Champa Lal (supra)**, it has been held that compliance under Article 243Q(2) of the Constitution of India is a constitutional precondition for constituting a municipality and the Governor must issue a public Notification based on the objective criteria as mentioned in Article 243Q(2). It further held that a municipality cannot be constituted merely by invoking the State municipal statute without first satisfying the constitutional parameters.

[39] The Hon’ble Apex Court in the case of **State of Rajasthan vs. Ashok Khetoliya and another reported in (2022) 12 SCC 185** has held and observed as under:

“7. Article 243Q of the Constitution and Section 5 of the Municipalities Act are reproduced hereunder:

Constitution of India	Rajasthan Municipalities Act, 2009
243-A. Constitution of Municipalities. – (1) There shall be constituted in every State,-- (a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area. (b) a Municipal Council for a smaller urban area; and (c) a Municipal Corporation for a larger urban area, in accordance with the provisions of this Part: Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.	Section 5 of the Municipalities Act 5. Establishment and incorporation of Municipality. - (1) In every transitional area, there shall be established a Municipal Board and every such Municipal Board shall be a body corporate by the name of the Municipal Board of the place by reference to which the Municipality is known and shall have perpetual succession and a common seal and may sue or be sued in its corporate name. (2) In every smaller urban area, there shall be established a Municipal Council and every such Municipal Council shall be a body corporate by the name of the Municipal Council of the city by reference to which the Municipality is known and shall have perpetual succession and a common seal and may sue and be sued in its corporate name. (3) In every larger urban area, there shall be established a Municipal Corporation and every such Municipal Corporation shall

(2)In this article, 'a transitional area', 'a smaller urban area' or 'a larger urban area' means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.	be a body corporate by the name of the Municipal Corporation of the city by reference to which the Municipality is known and shall have perpetual succession and a common seal and may sue and be sued in its corporate name: Provided that a Municipality under this Section may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by notification, specify to be an industrial township: Provided further that having regard to the cultural, historic, tourist or other like importance of an urban area, the State Government may, by notification in the Official Gazette, exclude such area from the Municipality and constitute, or without excluding such area from the Municipality constitute in addition to the Municipality, a development authority to exercise such powers and discharge such functions in the said area as may be prescribed and notwithstanding anything elsewhere in this Act, may, in
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	<i>relation to such area, delegate, by notification in the Official Gazette, such municipal powers, functions and duties to the said authority as it may think appropriate for the proper, rapid and planned development of such area.</i>
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“12. In Sundarjas Kanyalal Bhatija v. Collector, (1989) 3 SCC 396, a draft notification proposed the formation of a “Kalyan Corporation” by merging municipal areas of Kalyan, Ambarnath, Dombivali and Ulhasnagar. The State Government issued a notification excluding Ulhasnagar from the proposed corporation. The High Court found that the decision to exclude Ulhasnagar was taken by the Government abruptly and in an irrational manner. This Court held as under:

“27. Reverting to the case, we find that the conclusion of the High Court as to the need to reconsider the proposal to form the Corporation has neither the attraction of logic nor the support of law. It must be noted that the function of the Government in establishing a Corporation under the Act is neither executive nor administrative. Counsel for the appellants was right in his submission that it is legislative process indeed. No judicial duty is laid on the Government in discharge of the statutory duties. The only question to be examined is whether the statutory provisions have been complied with. If they are complied with, then, the court could say no more. In the present case the Government did publish the proposal by a draft notification and also considered the representations received. It was only thereafter, a decision was taken to exclude Ulhasnagar for the time being. That decision became final when it was notified under Section 3(2). The court cannot sit in judgment over such decision. It cannot lay down norms for the exercise of that power. It

cannot substitute even “its juster will for theirs”.

13. In Champa Lal v. State of Rajasthan (2018) 16 SCC 356, this Court had struck down a notification issued by the Governor of the State of Rajasthan holding that in the absence of notification which meets the requirement of Article 243Q(2), the entire exercise undertaken by the State of Rajasthan in upgrading the Napasar Village Gram Panchayat to be a Nagarpalika is inconsistent with the requirements provided thereof under the Constitution.

14. We find that such judgment is not in tune with the scheme of the Constitution and is contrary to a three-Judge Bench judgment of this Court reported as Parmar Samantsinh Umedsinh v. State of Gujarat & Ors. (2022) 15 SCC 364 wherein the vires of the Gujarat Provincial Municipal Corporation Act, 1949 were subject matter of challenge on the ground that the State law has provided more than one representative from a single Ward and, thus, this provision is inconsistent with the provisions of Article 243R and Article 243S of the Constitution. This Court held as under:

“20. The power of competent Legislature, i.e., State Legislature in the light of enabling provisions provided in the Constitution with regard to framing of laws concerning Legislature cannot be whittled down by way of restrictive interpretation as contended by the appellants. The State Legislature in federal set up specially in the matter of local Government are to enable enough seats to adopt the reservation based on local body.

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36. The ratio which can be culled out from the above judgment is that power of the State to legislate within its legislative competence is plenary and the same cannot be curtailed in the absence of an express limitation placed on such power in the Constitution itself.



37. Article 243ZF provides that any law relating to municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of Part IXA, shall not continue beyond expiration of one year from commencement of the constitutional amendment. Thus, Part IXA of the Constitution categorically contemplated that any law made by State Legislature, which is inconsistent with the provisions of Part IXA shall cease to operate on the expiration of one year or till amended or repealed by a competent Legislature, whichever is earlier. The Constitution provisions, thus, mandates that any law of the State, which is inconsistent, cannot continue. Thus, this limitation shall also govern any law made after enforcement of Constitution (Seventy fourth Amendment) Act. Thus, a law, which 7 2021 SCC OnLine SC 138 is inconsistent with Part IXA cannot be framed by the State Legislature.

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39. One of the meanings of expression “inconsistent” as approved by this Court is mutually repugnant or contradictory. Article 254 of the Constitution contains a heading “inconsistency between laws made by the Parliament and the laws made by the Legislature of the State” whereas under Article 254(1) and Article 254(2) the words used are repugnant. The Constitution itself, thus, has used the words inconsistency and repugnancy interchangeably. To find out as to whether a law made by State Legislature is inconsistent with provisions of Part IXA of the Constitution, the principles which have been laid down by this Court to determine the repugnancy between the law made by the Legislature of a State and law made by Parliament can be profitably relied on. We, thus, need to notice the principles on which the

repugnancy of law made by State and law made by the Parliament is found out.

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51. Thus, the Legislature of a State may by law has to provide all matters relating to or in connection with election to the Municipalities, which includes filling of the seats in the Municipality by person chosen by direct election. Articles 243R and 243ZA does not give any indication as to whether from territorial constituency, i.e., the Wards, whether only one member has to be elected in the Municipality or it can be multiple member constituency. The constitutional provisions of Article 243R, which provides for composition of Municipalities and that of Article 243ZA does not give any indication to the above. The provisions of Article 243ZG, which deals with bar to interference by courts in electoral matters throws some light...

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60. We have analysed the provisions of Article 243R, 243S and have come to the definite conclusion that no limitation in Article 243S can be found of which contains any prohibition of having more than one member for a Ward.

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64. We, in the present case, after analysing the relevant provisions of Part IXA of the Constitution has come to the conclusion that there is no prohibition or limitation in Part IXA of the Constitution prohibiting the State Legislature from making a law providing for election of more than one member from one territorial constituency, i.e., Ward.”

15. *In State of U.P. & Ors. v. Pradhan Sangh Kshettra Samiti & Ors. [1995 Supp (2) SCC 305]*, this Court was considering the Constitution (Seventy-third Amendment) Act, 1992. Article 243C in Part IX of the Constitution is similar to Article 243Q in Part IX-A of the Constitution. The High Court had struck down the definition of Village, Gram Sabha and Panchayat Area under the U.P. Panchayat Raj Act, 1947 as ultra vires the respective definitions given in Part IX of the Constitution. This Court held as under:

“3. On coming into force of the said Constitutional Amendment, the States were required by the Centre to take steps to organise village panchayats on the lines of the provisions of the said Constitutional Amendment by making law or amending the existing law suitably.

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11. The panchayats are to be constituted at the village, intermediate and district levels and the “panchayat area” as defined by Article 243(e) means the territorial area of the panchayat whether at the village, intermediate or district levels. What is necessary to remember further is that while as per Article 243(c) “intermediate level” is a level between the village and district levels, as specified by the Governor, the ‘district’ as per Article 243(a) means a district in a State the boundaries of which may be changed by the State Government. The district is not required to be specified by the Governor whereas village and intermediate levels have to be specified by him for the purposes of the said Part of the Constitution.

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36. As regards the objection of the High Court that whereas Article 243(g) requires the Governor to specify the village, the Act gives this power to the State

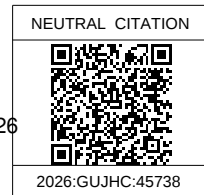


Government to do so, the High Court has failed to notice the provisions of the Constitution which equate the Governor with the State Government in exercise of his functions except where he is by or under the Constitution required to exercise the functions in his discretion.....

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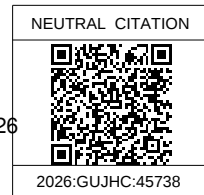
44. It is for the Government to decide in what manner the panchayat areas and the constituencies in each panchayat area will be delimited. It is not for the court to dictate the manner in which the same would be done. So long as the panchayat areas and the constituencies are delimited in conformity with the constitutional provisions or without committing a breach thereof, the courts cannot interfere with the same. We may, in this connection, refer to a decision of this Court in Hingir-Rampur Coal Co. Ltd. v. State of Orissa [(1961) 2 SCR 537 : AIR 1961 SC 459] . In this case, the petitioner – mine owners, had among others, challenged the method prescribed by the legislature for recovering the cess under the Orissa Mining Areas Development Fund Act, 1952 on the ground that it was unconstitutional. The majority of the Bench held that the method is a matter of convenience and, though relevant, has to be tested in the light of other relevant circumstances. It is not permissible to challenge the vires of a statute solely on the ground that the method adopted for the recovery of the impost can and generally is adopted in levying a duty of excise.”

“16. Since the local Government falls in entry 5 of List II of the Seventh Schedule, therefore, it is the State Legislature alone which is competent to legislate in respect of the municipalities with only one limitation that the provisions of the State Act cannot be inconsistent with the mandate of the Scheme of Part IXA of the Constitution. The scheme of Part IXA of the Municipalities Act does not contemplate a separate notification



under Article 243Q of the Constitution and thereafter under Section 5 of the Municipalities Act. As Section 5 of the Municipalities Act is not inconsistent with any provisions of Article 243Q of the Constitution, therefore, two notifications are not contemplated or warranted under the Scheme of Part IXA or the Municipalities Act as reproduced in the table above.”

[39.1] On perusal of the aforesaid decision in **Ashok Khetoliya (supra)**, it appears that the Hon’ble Apex Court, while allowing the State appeal, held that a separate Notification under Article 243Q(2) of the Constitution of India is not mandatory. Article 243Q of the Constitution of India does not require the Governor to issue an independent Notification declaring an area to be a transitional area before constituting a municipality. If the State Government issued independent Notification under the Municipal Law after considering constitutional requirements, it would suffice. It further held that constitution of Municipalities is a legislative function and the Court cannot interfere with such decision merely because another view is possible. In the said decision, the Hon’ble Apex Court also held that Article 243Q of the Constitution of India lays down guiding factors by envisaging factors therein so as to guide the State decision making process. Importantly, the Hon’ble



Apex Court expressly held that interpretation adopted in **Champa Lal (supra)** was not in consonance with the constitutional scheme and could not be treated as laying down correct constitutional law.

[40] At this juncture, it would also be an apt to take notice of the decision of the Hon'ble Apex Court in the case of **State of Punjab vs. Tehal Singh reported in (2002) 2 SCC 7**, wherein, in substance, the Hon'ble Apex Court has held that Notification issued constituting and altering Gram Sabha boundary is a legislative function and they are not administrative or quasi-judicial decision. The Hon'ble Apex Court also held that since the Notification was legislative function, no principle of natural justice requires to be observed unless the statute specifically provides. It was further held that judicial review of such Notification is limited to questions of legality, constitutional validity, *mala fides* or lacking of statutory authorities. Recently, Hon'ble Rajasthan High Court, in the case of **Motan Das vs. State of Rajasthan reported in 2025 SCC online RAJ 404**, in substance, held that the Governor's role under Article 243Q of the Constitution of India is discretionary and does not create an independent mandatory procedural requirement.



Constitution or alternation of municipality boundary is a legislative function, therefore, the principles of natural justice ordinarily do not apply unless expressly mandated by the State. It also held that the decision relating to the Constitution of Municipality is a policy and legislative matter and the Court shall have a limited scope of interfere.

[41] After having considered the aforesaid enunciation of law, what is emerging from the aforesaid settled proposition of law with respect to Article 243Q(2) of the Constitution of India can be stated as under:

(i) Article 243Q of the Constitution of India confers constitutional powers upon the Governors to determine the municipalities area;

(ii) Exercise substantially bears legislation character;

(iii) Constitution does not prescribe adjudicatory procedure before issuance of such Notification;

(iv) The expression “having regard to” requires due



consideration of relevant factors but does not require elaborate findings of individual parameters;

(v) Article 243Q of the Constitution of India intentionally preserves the flexibility by incorporating the words “or such other factors as may deem fit”;

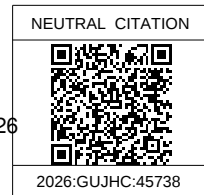
(vi) Judicial review confines to examine the legality of the decision making process and not the policy decision merely because another view is possible.

[41.1] Keeping in view the aforesaid legal position and upon consideration of the original files produced before the Court, it appears that the relevant constitutional factors were, in fact, taken into account by the competent authority while issuing the impugned Notification. Merely because each of such factors has not been expressly reproduced or reflected in the Notification itself cannot lead to the conclusion that the Notification was issued without due regard to the considerations contemplated under Article 243Q(2) of the Constitution of India.



This Court is of the considered view that the factors enumerated in Article 243Q(2) are illustrative and not exhaustive. The legislative intent becomes evident from the use of the expression, “or such other factors as he may deem fit”, which assumes considerable significance. The said expression clearly indicates that the factors specifically enumerated in Article 243Q(2) are not intended to be the sole or exclusive considerations. On the contrary, the Constitution has consciously conferred a wide measure of discretion upon the competent authority to take into consideration such additional or relevant factors as may, in its opinion, be germane to the decision-making process.

Viewed from this perspective, Article 243Q(2) confers a broad constitutional discretion in the matter of classification and specification of local areas, subject to the authority having due regard to the relevant considerations. The provision, by its very nature, is intended to afford sufficient flexibility to the executive in evaluating the multifaceted considerations involved in determining



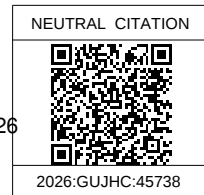
whether a particular area should be constituted as a transitional area, a smaller urban area or a larger urban area. Consequently, the omission to expressly enumerate each relevant factor in the impugned Notification cannot, by itself, vitiate the exercise of power when the contemporaneous record demonstrates due application of mind to the constitutional parameters.

[42] Having examined the constitutional scheme, the statutory provisions and the material placed on record, this Court now proceeds to consider the individual submissions advanced on behalf of the respective petitioners.

SUBMISSIONS OF LEARNED SENIOR ADVOCATE MR. MIHIR JOSHI (SPECIAL CIVIL APPLICATION NO.19474 OF 2023):

- So far as the contention raised in paragraph 14.1 of the petition is concerned, the same does not merit acceptance.

The principal submission is that the impugned Notification fails to comply with the directions issued by the Division Bench of this Court in its judgment dated 09.03.2023 rendered in Letters



Patent Appeal No.1226 of 2022. This contention proceeds on an erroneous understanding of the said judgment.

The Division Bench had directed the State Government to undertake the exercise contemplated under Article 243Q(2) of the Constitution of India by having due regard to the constitutional factors enumerated therein before issuing any fresh notification. The directions neither require that every factor must be expressly reproduced in the notification nor mandate that the notification should contain an elaborate recital recording the consideration of each individual factor.

The validity of the exercise undertaken under Article 243Q(2) is required to be examined from the decision-making process as a whole and the contemporaneous record forming the basis of such decision, and not merely from the language employed in the notification. Once the original record demonstrates that the competent authority considered the constitutional parameters before arriving at the requisite satisfaction, the mandate of Article 243Q(2) stands fulfilled. Consequently, the mere omission to



expressly refer to every factor in the notification cannot lead to the inference that the earlier directions of this Court have been breached.

- The contention raised in paragraph 14.2 regarding the alleged absence of effective compliance with Article 243Q(2) is equally devoid of merit.

The original files placed before this Court unmistakably demonstrate that, before issuance of the impugned notifications, the competent authorities had collected and examined relevant material relating to population, density of population, revenue generated for local administration, percentage of employment in non-agricultural activities, existing urban infrastructure, developmental requirements and other relevant administrative considerations. Article 243Q(2) obliges the authority to have due regard to the prescribed factors. It does not require the authority to record elaborate reasons akin to a quasi-judicial order.

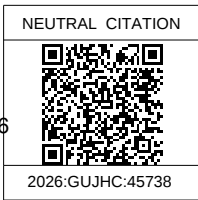
Equally untenable is the submission that the affidavits filed by the respondents seek to cure an inherent defect in the decision-



making process. The affidavits merely explain the process already undertaken and place before the Court the contemporaneous material which formed the basis of the impugned decision. They neither introduce fresh grounds nor attempt to supplement an otherwise invalid action. It is well settled that explanatory affidavits are permissible for elucidating the factual foundation of an administrative or legislative action where the contemporaneous record supports such explanation.

- The further contention that exclusion of certain similarly situated villages renders the exercise arbitrary also deserves rejection.

Determination of municipal limits necessarily involves consideration of several local factors, including geographical contiguity, administrative convenience, future developmental planning, availability of infrastructure, demographic trends and other relevant circumstances. Merely because another village has not been included within the municipal limits cannot, by itself, establish hostile discrimination or manifest arbitrariness. Unless the

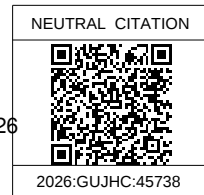


differentiation is shown to be wholly irrational or based upon irrelevant considerations, this Court cannot substitute its own assessment for that of the competent authority in matters involving legislative policy and local governance.

- The submission advanced in paragraph 14.3 founded upon the expression “having regard to” occurring in Article 243Q(2) is equally misconceived.

The said expression undoubtedly obliges the competent authority to consider the constitutional factors specified therein. However, it cannot be construed to mean that every factor must necessarily be assigned equal weight or that each individual factor should independently justify the ultimate decision. The expression merely requires due consideration of the relevant circumstances while leaving the ultimate assessment to the constitutional satisfaction of the Governor acting on the aid and advice of the Council of Ministers.

The material placed before this Court sufficiently demonstrates due application of mind to the constitutional

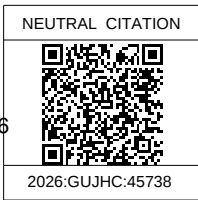


parameters enumerated under Article 243Q(2). Merely because the petitioners seek a different appreciation of the material cannot justify an inference of non-application of mind.

The decisions relied upon by the learned Senior Advocate are distinguishable both on facts and on the statutory framework involved therein. None of those authorities lays down that a notification issued under Article 243Q(2) must itself contain elaborate reasons or disclose in detail the sufficiency of the material considered by the executive while exercising constitutional or legislative powers. On the contrary, those decisions merely reiterate the obligation to consider the relevant constitutional factors—a requirement which, in the present case, stands duly satisfied.

- The contention raised in paragraph 14.4 regarding the scope of judicial review also deserves rejection.

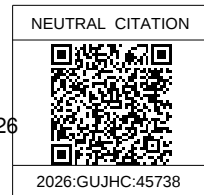
Judicial review of a notification issued under Article 243Q(2) is necessarily limited. The Court is concerned only with examining whether the constitutional requirements have been observed,



whether the competent authority has acted within the confines of law, whether the decision suffers from *mala fides*, manifest arbitrariness or consideration of wholly irrelevant material. The Court is not expected to sit in appeal over the wisdom of the policy decision or reassess the comparative weight to be assigned to the relevant factors.

Having examined the original record, this Court finds no material indicating any constitutional infirmity, *mala fides*, arbitrariness or non-application of mind. On the contrary, the contemporaneous record clearly demonstrates due consideration of the constitutional parameters before arriving at the satisfaction contemplated under Article 243Q(2). The petitioners, in substance, invite this Court to reassess the adequacy of the material considered by the Government, which falls outside the permissible limits of judicial review under Article 226 of the Constitution.

- The contention raised in paragraph 14.5 that the authorities merely collected data mechanically without meaningful consideration is equally unsustainable.



Collection of relevant data forms the very foundation for arriving at the constitutional satisfaction contemplated under Article 243Q(2). The original record reveals that the authorities obtained information from the concerned departments, analysed the same with reference to the constitutional parameters and thereafter processed the proposal through various administrative levels before placing it before the competent authority for approval.

The allegation that the exercise was predetermined or constituted a colourable exercise of power is unsupported by any cogent material. Allegations of *mala fides* or predetermined decision-making cannot rest upon conjectures or surmises. No material has been produced to establish that the constitutional exercise was reduced to an empty formality or that the authorities ignored the mandatory constitutional considerations.

It also deserves to be noticed that Article 243Q(2) expressly permits consideration of “such other factors as he may deem fit”. The Constitution, therefore, consciously confers sufficient flexibility upon the executive to evaluate local conditions while deciding

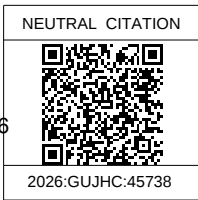


whether a particular area should be constituted as a municipality or merged with an existing municipal area. Once the prescribed constitutional factors, together with other relevant administrative considerations, have been duly examined, the constitutional mandate stands fully satisfied.

Accordingly, this Court is satisfied that the impugned notifications are the outcome of a lawful exercise undertaken strictly in conformity with Article 243Q(2) of the Constitution of India. No violation of the constitutional mandate, no arbitrariness, no non-application of mind and no breach of the earlier directions issued by this Court has been established. The submissions advanced by learned Senior Advocate Mr. Mihir Joshi, therefore, fail and are accordingly rejected.

SUBMISSIONS OF LEARNED ADVOCATE MR. B. Y. MANKAD
(SPECIAL CIVIL APPLICATIONS NOS.15309 OF 2025, 15574 OF
2025 AND 16471 OF 2025):

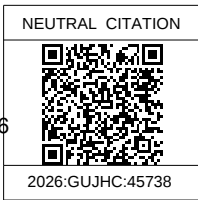
- So far as the contention raised in paragraph 15.1 regarding



the alleged non-compliance with Article 243Q(2) of the Constitution of India is concerned, the same has already been dealt with in the preceding paragraphs and, therefore, does not require reiteration.

- The additional contention that the resolutions dated 02.10.2024 and 30.01.2025 are fabricated and do not bear the genuine signatures of the concerned Sarpanch also deserves to be rejected.

Apart from making a bald allegation of fabrication, forgery and manipulation, the petitioners have failed to produce any cogent, contemporaneous or reliable material to substantiate such allegations. No complaint appears to have been lodged before any competent authority at the relevant point of time, nor have the petitioners initiated any independent proceedings challenging the authenticity of the said resolutions before the appropriate forum. Allegations of fraud, forgery and fabrication are serious in nature and carry significant civil consequences. Such allegations cannot be accepted merely on the basis of assertions contained in the



pleadings. They are required to be established by clear, cogent and convincing evidence, which is conspicuously absent in the present case.

Even otherwise, the contemporaneous record indicates that the State Government proceeded on the basis of official records forwarded by the competent authorities in the ordinary course of official business. In exercise of jurisdiction under Article 226 of the Constitution, this Court cannot undertake a roving enquiry into disputed questions of fact involving examination of signatures, genuineness of resolutions or disputed factual controversies requiring oral evidence.

- Reliance placed upon subsequent resolutions allegedly opposing the proposal for inclusion of the concerned Gram Panchayats within the municipal limits is equally misconceived.

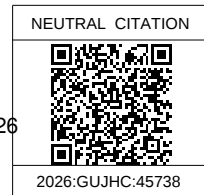
Firstly, the existence of conflicting resolutions itself demonstrates the presence of disputed questions of fact, which cannot conveniently be adjudicated in proceedings under Article 226 of the Constitution.



Secondly, the views expressed by the Gram Panchayat, whether supporting or opposing the proposal, do not possess binding force upon the State Government while exercising constitutional powers under Article 243Q(2). The constitutional obligation is to have due regard to the factors enumerated in Article 243Q(2) before arriving at the requisite satisfaction. The ultimate constitutional decision regarding constitution, expansion or alteration of municipal limits remains within the domain of the Governor acting on the aid and advice of the Council of Ministers.

Consequently, even assuming that objections were submitted by the concerned Gram Panchayat, the same would not invalidate the impugned notifications once the competent authority has considered the relevant material and exercised its constitutional discretion in accordance with law.

This Court is, therefore, unable to accept the submission that the impugned notifications stand vitiated merely because the petitioners dispute the authenticity of certain resolutions or because subsequent resolutions expressing a contrary view came to

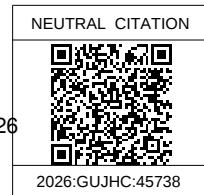


be passed by the Gram Panchayat.

- The contention raised in paragraph 15.2 regarding the alleged violation of principles of natural justice is equally devoid of merit.

Neither Article 243Q(2) of the Constitution nor any statutory provision brought to the notice of this Court mandates grant of an individual notice or personal hearing to every Gram Panchayat or every resident before issuance of a notification constituting or altering municipal limits. The constitutional requirement is confined to the competent authority having due regard to the prescribed constitutional factors before arriving at its satisfaction. The provision does not incorporate the principles of *audi alteram partem* as a mandatory precondition for exercise of such constitutional or legislative power.

The exercise undertaken under Article 243Q(2) is legislative in character and involves formulation of public policy concerning local self-government and territorial administration. It is a settled principle that, unless expressly provided by the Constitution or the



statute, the principles of natural justice requiring prior notice and personal hearing ordinarily have no application to legislative action of general application.

The petitioners, therefore, cannot claim a constitutional right to be personally heard before issuance of the impugned notifications.

The record further reveals that the competent authorities had obtained relevant information from the concerned local bodies and various governmental departments before initiating the proposal. Such material was duly considered during the decision-making process. Therefore, to the extent any consultative exercise was administratively undertaken, the same stood substantially complied with.

Merely because the objections submitted by the petitioners were not accepted or the ultimate decision was not in consonance with their expectations cannot lead to the conclusion that there was either absence of consultation or non-application of mind.

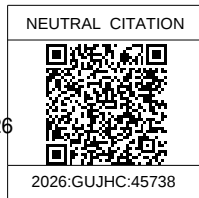


It also deserves to be observed that consultation cannot be equated with concurrence. Consultation necessarily postulates due consideration of the views expressed by the concerned authority before a final decision is taken. It does not oblige the decision-making authority to accept every suggestion or objection received during the consultative process. Once the competent authority has duly considered the relevant material and thereafter exercised its constitutional discretion, the decision cannot be invalidated merely because the petitioners disagree with the outcome.

Accordingly, the challenge founded upon alleged violation of principles of natural justice or absence of effective consultation deserves rejection.

SUBMISSIONS OF LEARNED ADVOCATE MS. A. K. BHIL
(SPECIAL CIVIL APPLICATION NO.1224 OF 2026):

- Contention that while exercising power under Article 243Q(2) of the Constitution of India, the Tribal Advisory Council was not consulted, as envisaged under Article 244 of the Constitution of India, is concerned, is misconceived in nature.



Article 244 undoubtedly provides a special constitutional framework for the administration of Scheduled Areas and for safeguarding the interests of Scheduled Tribes. However, neither Article 244 nor any provision contained in the Fifth Schedule mandates consultation with the Tribal Advisory Council as a condition precedent for issuance of a notification under Article 243Q(2) constituting or altering municipal limits.

The functions assigned to the Tribal Advisory Council under Paragraph 4 of the Fifth Schedule are advisory in nature and arise in relation to matters concerning the welfare and advancement of Scheduled Tribes referred to it by the Governor. The Constitution nowhere provides that every legislative or executive action affecting an area having a tribal population must necessarily be preceded by consultation with the Tribal Advisory Council.

In the absence of any constitutional or statutory mandate requiring such consultation before exercise of powers under Article 243Q(2), this Court cannot read into the constitutional provision an additional procedural requirement which the Constitution itself



has consciously omitted.

The further submission that inclusion of lands protected under Section 73AA of the Gujarat Land Revenue Code within municipal limits would, by itself, invalidate the impugned notifications is equally misconceived.

The declaration of an area as a smaller urban area or its inclusion within municipal limits does not extinguish the statutory protection otherwise available to tribal lands under the Gujarat Land Revenue Code or any other enactment governing transfer and use of such lands. Those statutory safeguards continue to operate notwithstanding alteration of municipal boundaries unless expressly modified by competent legislation.

Consequently, the mere inclusion of protected lands within municipal limits cannot be construed as depriving tribal landholders of the statutory protections available to them under the existing legal framework.

The remaining submissions regarding alleged non-compliance



with Article 243Q(2), absence of valid resolutions, want of consent of the Panchayats and lack of meaningful consultation have already been dealt with in the earlier part of this judgment. To avoid unnecessary repetition, this Court does not propose to re-examine the same.

SUBMISSIONS OF LEARNED ADVOCATE MR. BHARAT RAO
(SPECIAL CIVIL APPLICATION NO.5138 OF 2026):

- The submissions concerning alleged non-compliance with Article 243Q(2) and absence of meaningful consultation stand concluded by the findings already recorded hereinabove.
- The additional contention that the impugned notifications are politically motivated and constitute a colourable exercise of power also deserves rejection.

A plea of *mala fides* or colourable exercise of power cannot succeed on the basis of vague allegations or mere suspicion. Except making general assertions regarding political considerations, the petitioners have neither impleaded any individual against whom

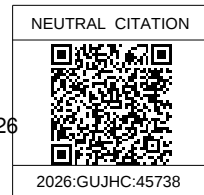


mala fides are alleged nor produced any material indicating that the constitutional decision was influenced by irrelevant or extraneous considerations. The law is well settled that allegations of *mala fides* must be pleaded with specificity and established by cogent evidence. Such requirements are wholly absent in the present case.

- The further submission regarding inadequacy of municipal infrastructure, financial resources or administrative preparedness also cannot justify judicial interference.

Assessment of infrastructure, fiscal capacity, developmental planning and administrative viability falls primarily within the exclusive domain of the executive and the competent local authorities. While exercising jurisdiction under Article 226 of the Constitution, this Court does not sit in appeal over policy decisions relating to urban governance unless the decision is shown to be unconstitutional, arbitrary or actuated by *mala fides*.

The material placed before this Court does not indicate that the decision to expand the municipal limits suffers from such patent irrationality or arbitrariness as would warrant interference in



exercise of judicial review.

Likewise, the apprehension regarding possible future liability towards municipal taxation or other incidental civil consequences is wholly misconceived. Municipal taxation is regulated by the relevant statutory enactments and constitutes an ordinary incident of municipal administration. Such consequential liabilities cannot invalidate a notification otherwise issued in conformity with Article 243Q(2) of the Constitution.

Accordingly, the submissions advanced on behalf of learned Advocate Mr. Bharat Rao also fail and are rejected.

SUBMISSIONS OF LEARNED SENIOR ADVOCATE MR. DHAVAL VYAS (SPECIAL CIVIL APPLICATION NO.758 OF 2026):

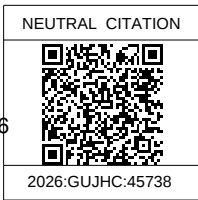
- The principal submission advanced by the learned Senior Advocate is that, in view of Section 7(2) of the Gujarat Panchayats Act, 1993, consultation with the concerned Gram Panchayat is mandatory before a village is included within, excluded from, or ceases to exist by reason of its merger into a Municipality.



According to the petitioners, such consultation is a condition precedent to the exercise of powers under Article 243Q(2) of the Constitution of India. The submission, though attractive at first blush, cannot be accepted for more than one reason.

At the outset, it is necessary to appreciate the constitutional and statutory scheme governing the field. Article 243(g) defines the expression “village” for the purposes of Part IX of the Constitution, whereas Article 243Q forms part of Part IX-A and deals with the constitution and classification of Municipalities. Though both provisions operate within the broader constitutional framework of local self-government, they occupy distinct fields and serve different constitutional purposes.

Section 7 of the Gujarat Panchayats Act is the statutory provision enacted to operationalise Article 243(g) of the Constitution. Sub-section (1) thereof deals with the initial specification of a village, whereas sub-section (2) governs subsequent alteration of village limits, inclusion of any local area within a village or cesser of a village. It is in that statutory context



that the Legislature has incorporated a consultative process requiring consultation with the concerned Taluka Panchayat, District Panchayat and Village Panchayat before an appropriate recommendation is made to the Governor.

The consultative requirement contained in Section 7(2), therefore, is intrinsically linked with the statutory exercise undertaken for the purposes of defining, altering or extinguishing the territorial identity of a village under the Panchayats Act read with Article 243(g) of the Constitution. The present case, however, stands on an altogether different footing. The impugned notifications have not been issued in exercise of powers under Section 7 of the Gujarat Panchayats Act. They have been issued by invoking the constitutional power contained in Article 243Q(2) of the Constitution for the purpose of constituting or enlarging municipal areas.

Significantly, Article 243Q(2), while expressly requiring the Governor to have due regard to the factors enumerated therein, does not incorporate any requirement of consultation with the



concerned Gram Panchayat or any other local authority before issuance of the notification. The constitutional omission is both conscious and significant. Where the Constitution itself has expressly prescribed the factors to be considered while simultaneously refraining from providing any consultative procedure, it would not be permissible for the Court to import, by interpretative process, an additional procedural requirement which the constitutional provision itself does not contemplate.

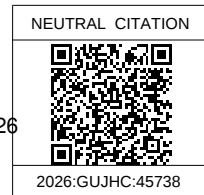
It is a settled principle of constitutional interpretation that Courts may harmoniously construe constitutional and statutory provisions so as to give effect to both. Equally well settled, however, is the principle that a statutory provision cannot be interpreted in a manner which either controls, restricts or enlarges the scope of a constitutional power unless the Constitution itself so permits.

If the submission canvassed on behalf of the petitioners is accepted, Section 7(2) of the Gujarat Panchayats Act would virtually operate as a limitation upon the constitutional power



conferred under Article 243Q(2). Such an interpretation would invert the constitutional hierarchy by permitting a statutory provision to impose an additional procedural fetter upon the exercise of a constitutional power. Such a construction is impermissible. The constitutional power under Article 243Q(2), therefore, cannot be made subject to a procedural requirement which finds no place in the constitutional text itself. This does not, however, mean that the provisions of Section 7 of the Gujarat Panchayats Act become otiose whenever a village is merged into a Municipality. Both provisions can, and indeed must, be harmoniously construed.

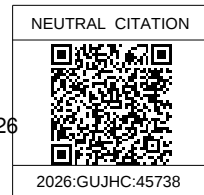
Where the competent authority proposes to exercise powers for the purposes contemplated under Article 243(g) and Section 7 of the Gujarat Panchayats Act, the statutory procedure, including the consultative requirement prescribed under Section 7(2), deserves strict compliance. Such consultation constitutes a statutory safeguard in matters relating to specification, alteration or cesser of a village under the Panchayats legislation.



However, where the exercise is undertaken under Article 243Q(2) for the constitution, classification or expansion of a Municipality, the constitutional provision governs the field. In such a situation, the eventual consequence that a village ceases to remain a village is merely incidental to the constitutional exercise undertaken under Part IX-A. The incidental consequence of a village ceasing to exist cannot have the effect of importing into Article 243Q(2) a procedural requirement which the Constitution has consciously omitted. To hold otherwise would amount to permitting the statutory procedure under Section 7(2) to override the constitutional framework contained in Article 243Q(2), which would be contrary to settled principles governing constitutional supremacy and harmonious construction.

The argument that meaningful consultation under Section 7(2) necessarily becomes mandatory whenever a village ultimately ceases to exist by virtue of its merger into a Municipality is, therefore, liable to be rejected.

The constitutional validity of the exercise undertaken under



Article 243Q(2) has to be tested with reference to the requirements expressly contained in that provision itself, namely, whether the competent authority had due regard to the constitutional factors enumerated therein before arriving at its satisfaction.

As already discussed in the earlier part of this judgment, the contemporaneous record clearly demonstrates due consideration of those constitutional parameters. Once that requirement stands satisfied, the validity of the impugned notifications cannot be questioned by importing procedural requirements dehors Article 243Q(2).

Accordingly, this Court is unable to accept the submission that the consultative procedure envisaged under Section 7(2) of the Gujarat Panchayats Act constitutes a mandatory precondition for the exercise of constitutional powers under Article 243Q(2) of the Constitution of India.

- The next submission advanced on behalf of the petitioners is that, even assuming Section 7(2) of the Gujarat Panchayats Act applies, the consultation contemplated therein must necessarily be

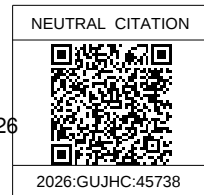


with an elected Gram Panchayat constituted under Section 9 of the Act and not with an Administrator appointed to manage its affairs. It is, therefore, contended that the report submitted by the Administrator is non est in the eye of law and that the entire decision-making process stands vitiated on that count.

This submission also cannot be accepted.

As already discussed hereinabove, Article 243Q(2) of the Constitution does not, in terms, prescribe any consultative process before the Governor exercises the constitutional power of constituting or altering municipal areas. Consequently, the validity of the impugned notifications cannot be tested on the anvil of an alleged absence of consultation under Section 7(2) of the Gujarat Panchayats Act.

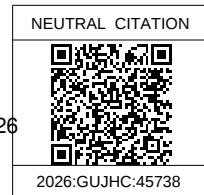
Even otherwise, assuming for the sake of argument that the statutory consultative process is attracted, the contention that consultation with an Administrator is wholly impermissible does not commend acceptance.



At the relevant point of time, the elected body of the concerned Gram Panchayat was admittedly not in existence. The affairs of the Gram Panchayat were being lawfully administered by an Administrator appointed under the provisions of the Gujarat Panchayats Act. Such an Administrator is not a private individual or an outsider. He is a statutory functionary entrusted with the management and administration of the Gram Panchayat during the interregnum until a duly elected body assumes office.

Any report, recommendation or communication submitted by such a statutory authority in discharge of his official functions cannot be disregarded merely because an elected body was not in existence on the relevant date. To hold otherwise would virtually suspend governmental functioning during every interregnum between two elected bodies, a consequence which neither the Constitution nor the statute contemplates.

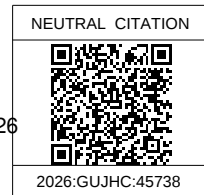
More importantly, the contemporaneous record does not indicate that the report submitted by the Administrator constituted the sole basis of the impugned decision.



On the contrary, the original files reveal that the proposal underwent consideration at multiple administrative levels. Reports were obtained from the concerned Collector, the Regional Commissioner, the Directorate of Municipalities and other competent authorities. Relevant material concerning population, density of population, revenue generation, urban infrastructure, developmental potential, geographical contiguity and other constitutional factors was independently examined before the proposal ultimately received approval at the highest level of the State Government.

Viewed in that perspective, the report of the Administrator constituted only one amongst several materials which weighed with the competent authority during the decision-making process. Even assuming any infirmity in such report, the same would not, by itself, vitiate the entire constitutional exercise when the ultimate decision is demonstrably founded upon several independent considerations.

- Reliance placed by the learned Senior Advocate upon the



decision of the Hon'ble Supreme Court reported in **1999(2) SCC 366** also does not advance the case of the petitioners.

There can be no quarrel with the proposition laid down therein that wherever consultation is statutorily or constitutionally prescribed, such consultation must be real, effective and meaningful and not an empty formality. However, the principle of meaningful consultation cannot be expanded to mean concurrence, approval or veto. Consultation postulates due consideration of the views expressed by the consultative body. It does not oblige the ultimate decision-making authority to accept those views. The power to decide continues to vest in the authority upon whom the Constitution or the statute has conferred such jurisdiction.

Therefore, merely because the final decision does not accord with the views expressed by the local body cannot lead to the inference that the consultation was illusory or mechanically undertaken.

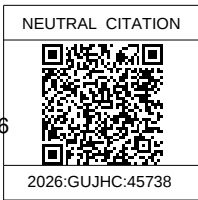
In the present case, the contemporaneous record sufficiently demonstrates that the relevant inputs received from the concerned



authorities were duly considered before the constitutional satisfaction contemplated under Article 243Q(2) was arrived at. It is necessary to bear in mind that the scope of judicial review in matters of this nature remains confined to examining the legality of the decision-making process. Once the record discloses consideration of relevant material by the competent authority, this Court cannot embark upon an enquiry as to whether greater weight ought to have been assigned to one report in preference to another or whether an alternative administrative conclusion would have been more appropriate.

Such an exercise would amount to substituting judicial opinion for executive satisfaction, which is impermissible while exercising jurisdiction under Article 226 of the Constitution.

Having considered the matter in its entirety, this Court is satisfied that the constitutional exercise undertaken under Article 243Q(2) does not suffer from any procedural illegality, constitutional infirmity, non-application of mind or failure to consider the relevant constitutional parameters.



The challenge founded upon the alleged violation of Section 7(2) of the Gujarat Panchayats Act, the absence of consultation with an elected Gram Panchayat, the report submitted by the Administrator and the alleged inadequacy of consultation is, therefore, devoid of merit and accordingly stands rejected.

SUBMISSIONS OF LEARNED ADVOCATE MR. HARDIK RAWAL
(SPECIAL CIVIL APPLICATION NO.1115 OF 2025):

- The principal submission advanced by the learned advocate is that, before exercising powers under Article 243Q(2) of the Constitution of India, the State Government ought to have evolved uniform parameters or objective benchmarks applicable throughout the State for determining whether a particular area should be declared as a transitional area, a smaller urban area or merged with an existing Municipality.

At first blush, the submission appears attractive. However, upon closer scrutiny, it does not withstand constitutional examination.



Neither Article 243Q(2) of the Constitution nor any statutory provision governing the field prescribes the formulation of uniform or inflexible criteria applicable across the State. On the contrary, the constitutional scheme itself indicates that the exercise contemplated under Article 243Q(2) is essentially contextual and area-specific.

Urbanisation is not a phenomenon capable of being measured by a single mathematical formula. The pace and pattern of development vary substantially from one region to another depending upon geographical location, industrial growth, commercial activity, demographic profile, connectivity, availability of civic infrastructure, environmental conditions and numerous other local considerations. A metropolitan area cannot be equated with a border district; a tribal region cannot be assessed on the same parameters as an industrial corridor; nor can coastal development be compared with inland urban expansion.

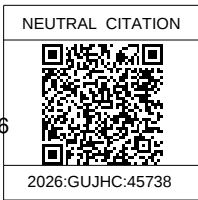
It is precisely for this reason that Article 243Q(2), after enumerating certain relevant factors, consciously employs the



expression “or such other factors as he may deem fit.” The incorporation of the said expression is of considerable constitutional significance. It unmistakably demonstrates that the factors specifically enumerated are illustrative and not exhaustive, and that the Constitution deliberately confers a wide measure of discretion upon the competent authority to take into account such additional considerations as may be relevant in the peculiar facts of each case.

Acceptance of the petitioners’ submission would virtually require this Court to legislate by prescribing rigid and uniform benchmarks where the Constitution itself has consciously provided flexibility. Such an exercise would amount to rewriting Article 243Q(2), which is plainly impermissible while exercising the power of judicial review.

Once the Constitution has vested the Governor, acting on the aid and advice of the Council of Ministers, with the discretion to evaluate the relevant constitutional and administrative factors, this Court cannot substitute its own standards or evolve additional



conditions not contemplated by the constitutional provision itself.

It also deserves to be emphasised that judicial review under Article 226 is directed against the legality of the decision-making process and not against the merits or wisdom of the ultimate policy decision. Unless the exercise is shown to suffer from constitutional infirmity, manifest arbitrariness, *mala fides* or consideration of wholly irrelevant factors, the Court would not be justified in interfering merely because another view is possible.

This Court has carefully examined the original files relating to each of the impugned notifications. The contemporaneous record reveals that the proposal for expansion of the municipal limits underwent consideration at various administrative levels before the final decision was taken. Reports and opinions were called for from the concerned Collectors, Mamlatdars, Chief Officers, Regional Commissioners, the Directorate of Municipalities and other competent authorities. The authorities examined village-wise data relating to population, density of population, extent of urbanisation, projected urban growth, revenue generation,



economic significance, geographical proximity, availability of civic infrastructure and other relevant constitutional factors before making their respective recommendations.

The original files further indicate that the proposal was processed through the established administrative hierarchy and ultimately placed before the competent constitutional authority for approval. The decision, therefore, cannot be characterised as arbitrary, mechanical or unsupported by relevant material. On the contrary, the record reflects a comprehensive and structured decision-making process involving due deliberation at every stage.

In these circumstances, this Court is satisfied that the constitutional satisfaction contemplated under Article 243Q(2) was arrived at only after due consideration of the relevant constitutional and administrative parameters. No material has been placed before this Court to demonstrate that the decision-making process was arbitrary, irrational or vitiated by non-application of mind.

Accordingly, the submissions advanced by learned Advocate



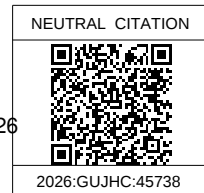
Mr. Hardik Rawal do not merit acceptance and are rejected.

SUBMISSIONS OF LEARNED SENIOR ADVOCATE MR. SHALIN MEHTA AND LEARNED ADVOCATES MR. SUBODH KUMUD AND MR. PRAKASH PANDYA:

The submissions advanced by the learned Senior Advocate Mr. Shalin Mehta and the learned advocates Mr. Subodh Kumud and Mr. Prakash Pandya substantially overlap with the contentions already dealt with in the preceding paragraphs.

This Court has already examined in detail the scope and ambit of Article 243Q(2) of the Constitution, the nature of the constitutional satisfaction required thereunder, the extent of judicial review, the requirement of consultation, the applicability of Section 7 of the Gujarat Panchayats Act and the other allied constitutional issues raised on behalf of the petitioners.

Since the submissions advanced on behalf of the aforesaid learned counsel do not raise any distinct question of law requiring independent consideration, this Court does not propose to deal

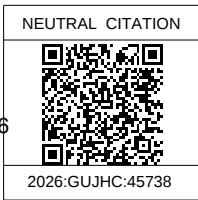


with them separately in order to avoid unnecessary repetition. Suffice it to observe that for the reasons already recorded hereinabove, none of the said submissions merits acceptance.

[43] Apart from the conclusions recorded on the merits of the controversy, this Court is also of the considered opinion that the present petitions do not deserve to be entertained in exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India for an additional and equally significant reason.

The jurisdiction conferred upon the High Court under Article 226 is essentially discretionary, equitable and intended to advance the cause of justice. The Court is required to examine whether the grant of relief would advance the larger public interest or, on the contrary, result in greater public inconvenience, administrative uncertainty or manifest injustice.

In exercising its discretionary jurisdiction, the Court is required to balance competing public interests and take into consideration the practical consequences of the relief sought. Where the grant of relief is likely to unsettle a settled constitutional



or administrative position, disturb rights which have intervened in the meantime, or result in disproportionate public prejudice, the Court would be justified in declining relief notwithstanding the existence of an arguable legal grievance.

In the present case, it is an undisputed position that, pursuant to the impugned notifications, the concerned municipal areas have already been constituted. Consequent thereto, elections have been conducted by the competent constitutional authorities in accordance with law. Elected Councillors have assumed office; Municipal Councils have been duly constituted and have commenced discharging their statutory and constitutional functions. The municipal administration has become fully operational and governance is presently being carried on on the basis of the altered municipal limits. Financial allocations, administrative arrangements, developmental planning and statutory functions have also proceeded on the basis of the existing municipal structure.

The impugned notifications have, therefore, long ceased to



remain mere executive or administrative instruments. They have culminated into a constitutional and administrative reality upon which subsequent constitutional, statutory and administrative actions have been founded.

[43.1] In these circumstances, setting aside the impugned notifications at this stage would have consequences extending far beyond the parties presently before the Court. Such an exercise would not merely invalidate an executive decision; it would unsettle an electoral process already concluded, dislodge duly elected local self-government institutions, disrupt an existing administrative framework and create uncertainty in municipal governance affecting a large body of citizens who are not parties to the present proceedings.

The inevitable consequence would be the creation of an administrative vacuum, uncertainty in civic administration and avoidable disruption of public governance. Such consequences would be wholly disproportionate to the relief sought and would not subserve the larger public interest.



The Court cannot overlook the fact that valuable rights have intervened in the meantime. Democratic institutions have assumed office, public administration has been reorganised and innumerable decisions affecting governance and public administration have already been taken pursuant to the impugned notifications. Interference at this stage would inevitably prejudice not merely the State Government or the elected representatives but also the residents of the concerned municipal areas who have arranged their civic affairs on the basis of the existing constitutional framework.

[43.2] It is a settled principle of constitutional law that a writ is not issued merely because it is lawful to do so. Relief under Article 226 is governed not only by considerations of legality but also by considerations of justice, equity, public interest and the practical consequences of judicial intervention.

The extraordinary jurisdiction of this Court is intended to prevent injustice and not to create greater public inconvenience. Even where a legal infirmity is capable of being demonstrated, the



Court would be justified in refusing relief where interference would result in disproportionate public prejudice, unsettle completed constitutional processes or disturb rights that have accrued in favour of third parties.

Having regard to the peculiar facts of the present case, namely, the completion of the electoral process, constitution of the Municipal Councils, assumption of office by elected representatives, commencement of municipal administration, creation of third-party rights and the irreversible administrative consequences that have ensued, this Court is of the considered opinion that no case is made out for exercising the discretionary jurisdiction under Article 226 to quash the impugned notifications.

The balance of justice, equity and larger public interest overwhelmingly tilts in favour of maintaining the existing constitutional and administrative arrangement rather than unsettling a completed democratic process.

Accordingly, this Court declines to issue any prerogative writ under Article 226 of the Constitution of India.



[44] For all the aforesaid reasons, all the petitions fail and are accordingly dismissed. Notice is discharged in each of the petitions. Interim relief, if any, stands vacated. There shall be no order as to costs.

[45] Consequently, connected Civil Applications also stand disposed of.

CHANDRESH

(NIRAL R. MEHTA,J)