

ITEM NO.1

COURT NO.10

SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s) 8519/2006

(Arising out of impugned final judgment and order dated 02-05-2006 in SCA No.9686/2006 passed by the High Court of Gujarat at Ahmedabad)

UNION OF INDIA & ANR.

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(FOR ON IA 11510/2010
FOR ON IA 15088/2010
FOR ON IA 18103/2010
FOR ON IA 32062/2010
FOR ON IA 56024/2010
FOR ON IA 67404/2010
FOR ON IA 80074/2010
FOR ON IA 83122/2010
FOR ON IA 96547/2010
FOR ON IA 21621/2011
FOR ON IA 44599/2011
FOR ON IA 54980/2011
FOR ON IA 88121/2011
FOR ON IA 91488/2011
FOR ON IA 78530/2012
FOR ON IA 81108/2012
FOR ON IA 106187/2012
FOR ON IA 53164/2013
FOR ON IA 63965/2013
FOR ON IA 63969/2013
FOR ON IA 73064/2013
FOR ON IA 73541/2013
FOR ON IA 76374/2013
FOR ON IA 76669/2013
FOR ON IA 12/2013
FOR ON IA 0/2013

FOR INTERVENTION APPLICATION ON IA 16/2014

FOR STAY APPLICATION ON IA 0/2014

FOR EXEMPTION FROM FILING O.T. ON IA 17/2014

FOR INTERVENTION APPLICATION ON IA 18/2015

FOR ON IA 19/2016

FOR ON IA 20/2016

FOR INTERVENTION APPLICATION ON IA 21/2016

FOR PERMISSION TO APPEAR AND ARGUE IN PERSON ON IA 22/2016

FOR ON IA 23/2017

FOR ON IA 24/2017

FOR EXEMPTION FROM FILING O.T. ON IA 25/2017

FOR EXEMPTION FROM FILING O.T. ON IA 26/2017

FOR ON IA 27/2017

FOR EXEMPTION FROM FILING O.T. ON IA 28/2017)

WITH

SLP (C) No.10309-10312/2015 (XI -A)
(FOR CONDONATION OF DELAY IN FILING ON IA 5/2015)

S.L.P.(C)...CC No. 4766/2014 (XI)

SLP(C) No.19265-19268/2013 (XI-A)
(FOR ON IA 50081/2013

FOR ON IA 75776/2013

FOR ON IA 75777/2013

FOR ON IA 18/2015)

SLP(C) No.20204-20207/2013 (XI-A)

SLP(C) No.20208-20211/2013 (XI-A)

SLP(C) No.20212-20215/2013 (XI-A)

SLP(C) No.19783/2013 (XI-A)

SLP(C) No.19697/2013 (XI-A)

SLP(C) No.20187-20190/2013 (XI-A)
(FOR ON IA 61655/2013)

SLP (C) No.20177-20180/2013 (XI -A)
(FOR ON IA 61649/2013)

SLP(C) No.20183-20186/2013 (XI -A)
(FOR ON IA 61654/2013)

SLP (C) No.20191-20194/2013 (XI -A)
(FOR ON IA 61650/2013)

SLP (C) No.20195-20198/2013 (XI-A)
(FOR ON IA 61656/2013)

SLP (C) No.20199-20202/2013 (XI-A)
(FOR ON IA 61652/2013)

W.P. (C) No.314/2010 (PIL-W)
(FOR ON IA 49910/2013
FOR ON IA 4/2016
FOR [PERMISSION TO FILE ANNEXURES] ON IA 5/2016)

SLP (C) No.26481-26484/2014 (XI-A)
(FOR PERMISSION TO FILE SLP ON IA 1/2014)

SLP (C) No.26462-26465/2014 (XI-A)
(FOR PERMISSION TO FILE SLP ON IA 1/2014)

SLP (C) No.26476-26479/2014 (XI-A)
(FOR PERMISSION TO FILE SLP ON IA 1/2014)

SLP (C) No.26489-26492/2014 (XI-A)
(FOR PERMISSION TO FILE SLP ON IA 1/2014)

SLP (C) No.26471-26474/2014 (XI-A)
(FOR PERMISSION TO FILE SLP ON IA 1/2014)

SLP (C) No.26485-26488/2014 (XI-A)
(FOR PERMISSION TO FILE SLP ON IA 1/2014)

SLP (C) No.26467-26470/2014 (XI-A)
(FOR PERMISSION TO FILE SLP ON IA 1/2014)

SLP (C) No.26493-26496/2014 (XI -A)
(FOR PERMISSION TO FILE SLP ON IA 1/2014)

SLP (C) No.30278-30281/2014 (XI-A)

SLP (C) No.30274-30277/2014 (XI-A)

SLP (C) No.121-124/2015 (XI -A)
(FOR PERMISSION TO FILE SLP ON IA 1/2014)

SLP (C) No.34249-34252/2014 (XI-A)

CONMT.PET.(C) No.397/2013 In SLP(C) No.8519/2006

CONMT.PET.(C) D 34470/2013 In SLP(C) No.8519/2006

SLP (C) No.30283-30286/2014 (XI-A)

SLP (C) No.30287-30290/2014 (XI-A)

CONMT.PET.(C) No.549/2014 In SLP(C) No.8519/2006

(FOR APPL. UNDER ORDER 12 RULE 5 SCR FOR ISSUE OF DECREE ON IA 1/2014

FOR EXEMPTION FROM FILING O.T. ON IA 2/2014

FOR INTERVENTION APPLICATION ON IA 3/2016)

SLP (C) No.36458/2012 (XI-A)

(FOR ON IA 9649/2013)

Date : 31-01-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE AMITAVA ROY

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

SLP (C) NOS. 8519/2006, W.P.(C)NO. 314/2010, CONTEMPT
PETITION(C)NO. 397/2013 IN SLP(C)NO.8519/2006, CONTEMPT
PETITION(C)D.34470/2013 IN SLP(C)NO.8519/2006, CONTEMPT
PETITION(C)NO.549/2014 in SLP(C)NO.8519/2006, CONTEMPT
PETITION DY.NO.40673/2017:

Repeated orders have been passed by this Court with respect to the removal of illegal religious structures which have come up by way of encroachments on public land. Now these matters are pending.

Vide orders dated 7.12.2009, the following directions have been issued:

"This Court on 29th September, 2009, after taking into consideration the letter dated 19th September, 2009, sent by the Union Home Secretary to the learned Solicitor General of India, we passed the following order:

"We have heard the learned counsel for the parties. Looking to the far-reaching implications and consequences of the orders

of this Court, on the oral request of the learned Solicitor General of India, we deem it appropriate to implead all the States and the Union Territories as respondents to this petition. The Registry is directed to issue notices to all the States and the Union Territories within three days. The Union of India is directed to supply the entire set of papers to all the Standing Counsel appearing for the State Governments and the Union Territories.

The States and the Union Territories may file replies within four weeks and the Union of India is granted liberty to file rejoinder within two weeks thereafter.

As an interim measure, we direct that henceforth no unauthorized construction shall be carried out or permitted in the name of Temple, Church, Mosque or Gurudwara etc. on public streets, public parks or other public places etc.

In respect of the unauthorized construction of religious nature which has already taken place, the State Governments and the Union Territories shall review the same on case to case basis and take appropriate steps as expeditiously as possible.

In order to ensure compliance of our directions, we direct all the District Collectors and Magistrates/Deputy Commissioners in charge of the Districts to ensure that there is total compliance of the order passed by us. They are directed to submit a report within four weeks to the concerned Chief Secretaries or the Administrators of the Union Territories who in turn will send a report to this Court within eight weeks from today.

List this matter for further directions on 7th December, 2009."

All the States and the Union Territories have been served. Despite service, most of the States and Union Territories have not filed affidavits as directed by this Court. In the interest of justice, we grant one more

opportunity to the Chief Secretaries/Administrators of the respective States and Union Territories to file affidavits. Let the same be filed within six weeks, failing which the concerned Chief Secretaries and Administrators shall remain present in Court on the next date of hearing.

In case the Chief Secretaries and the Administrators have not issued circulars to all the Collectors and the District Magistrates of the Districts, it shall be issued within two weeks from today.

The Chief Secretaries, in consultation with the respective Governments are directed to frame the policy in respect of existing unauthorised construction of religious nature, which had already taken place. This Court directed the respondents to review the same on case to case basis. Let the policies be formulated by all the States and the Union Territories within four weeks from today.

We are reiterating that the Chief Secretaries, the concerned District Magistrates and the Collectors/Deputy Commissioners in-charge of the Districts must ensure total compliance of our order. Any breach in this respect shall be viewed seriously by this Court.

We direct the Chief Secretaries/Administrators of all the States and Union Territories to circulate copies of the order dated 29th September, 2009 and this order to all the District Magistrates and Collectors/Deputy Commissioners, other public bodies and local bodies.

We direct the learned Standing counsel appearing for various States and the Union Territories to ensure that all copies of the affidavits are filed in this Court on or before 27th January, 2010 with an advance copy to the learned Solicitor General of India, who is requested to get all these affidavits tabulated and submit a report to this Court on or before 2nd February, 2010.

Place this petition for further directions on 4th February, 2010. Looking to

the gravity of this matter, we direct that no order or direction inconsistent to our orders, shall be passed by any other Court in the country."

Vide order dated 16.2.2010, the following directions have been issued:

In pursuance of the order of this Court dated 29th September, 2009, by which this Court directed that henceforth no unauthorized construction shall be carried out or permitted in the name of Temple, Church, Mosque or Gurudwara etc. on public streets, public parks or other public places, the affidavits of all the States and the Union Territories, except the State of Uttarakhand, have been filed. All the States and the Union Territories have taken necessary steps to ensure that no further unauthorized construction shall take place and Court's directions are seriously and meticulously complied with.

The other part of the directions issued on 29th September, 2009, were that in respect of unauthorized construction of religious nature which has already taken place on public streets, public parks or other public places, the State Governments and the Union Territories were directed to review the same on case to case basis and take appropriate steps as expeditiously as possible. We do not find comprehensive and satisfactory affidavits as far as this direction of the order is concerned. Therefore, it has become imperative to direct all the States and the Union Territories to formulate comprehensive policy regarding the removal/ relocation/ regularisation of the unauthorized construction within six weeks' from today. The policy should clearly indicate within what period the States and the Union

Territories are going to fully comply with its policy to remove/relocate/regularise the unauthorized construction.

We also direct all the States and the Union Territories to identify unauthorized construction of religious nature on public streets, public parks and public places within six weeks' from today.

We direct the Chief Secretary of the State of Uttarakhand to file an affidavit within two weeks from today. In case the affidavit is not filed, the Chief Secretary shall remain present in Court on the next date of hearing.

We also direct all the Chief Secretaries of the States and the Administrators of the Union Territories to file further comprehensive affidavits within six weeks' from today.

The special leave petition is adjourned to 6th April, 2010."

To ensure the implementation of directions issued by this Court, consensus has been arrived at Bar and in our opinion, rightly, that the implementation of the order should be supervised by the concerned High Courts. We, consequently, remit the above matters to the respective High Courts for ensuring implementation of the orders in effective manner.

The concerned records be transmitted to the respective High Courts. The interim orders wherever passed, shall continue, until the matters are considered by the High Court. In case any clarification is required, it would be open to the parties to approach this Court. The High Court will have the jurisdiction to proceed in

the Contempt of any of the orders passed by this Court.

Pending applications shall also be transmitted to the High Court.

REMAINING MATTERS:

As prayed, let the matters be listed on 6.2.2018.

**(B. PARVATHI)
COURT MASTER**

**(JAGDISH CHANDER)
BRANCH OFFICER**