



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 3502 of 2025**

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MINAXI CHANDULAL SHAH & ORS.
Versus
UNION OF INDIA & ORS.

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Appearance:

MR. SHALIN MEHTA, SR. ADV. WITH MS DHARA M SHAH(5546) for the
Petitioner(s) No. 1,10,11,12,13,14,15,16,17,18,19,2,3,4,5,6,7,8,9
MS. HETAL PATEL, ASSISTANT GOVERNMENT PLEADER for the
Respondent(s) No. 3
MR HARSHEEL D SHUKLA(6158) for the Respondent(s) No. 2
MR SHUSHIL R SHUKLA(5603) for the Respondent(s) No. 1

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CORAM: **HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

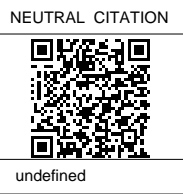
Date : 24/04/2025

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)

Heard the learned senior advocate Mr. Shalin Mehta assisted by
learned advocate Ms. Dhara Shah for the petitioners and perused the
record.

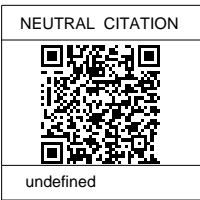
2. By means of the present writ petition, the petitioners seek to
challenge the validity of the amendment to Section 13 of the Registration
of Birth and Deaths (Amendment Act) 2023, whereby the power to make
an inquiry into the matter of registration of birth and death on delayed
information after one year of its occurrence has been conferred to the
Executive Magistrate namely the District Magistrate appointed under
sub-section(1) of Section 20 of the Criminal Procedure Code, 1973
[corresponding Section 14 of the Bharatiya Nagrik Suraksha Sanhita,
2023 (BNSS)].



3. It is sought to be argued by the learned senior advocate Mr. Shalin Mehta on behalf of the petitioners that the original sub-section (3) of Section 13 empowered the Judicial Magistrate First Class or Presidency Magistrate to make an inquiry into the matter of birth or death which has not been registered within one year of its occurrence. The submission is that shifting of power from Judicial Magistrate to the Executive Magistrate in the matter of inquiry into registration of birth and death on the delayed information after one year after its occurrence is contrary to sub-section(2)(a) of Section 3 of the BNSS, 2023.

4. By reading of Clause (a) of sub-section(2) of Section 3, it is sought to be argued by the learned senior advocate for the petitioners that any inquiry which involves appreciation or shifting of evidence under any law, is to be adjudicated by a Judicial Magistrate, whereas the Administrative or Executive inquiry to be conducted by an Executive Magistrate is confined to the power aligned in clause(b) of sub-section(2) of Section 3.

5. Having noted the said submissions, we have carefully read the provisions of clauses (a) and (b) of sub-section(2) of Section 3 of the BNSS, 2023. Having carefully gone through the same, we find that sub-section 2(a) of Section 3 of BNSS '2023, speaks of such inquiry by a magistrate under any law, other than Sanhita where the powers exercised by him relate to the functions which exposes any person to any punishment or penalty or detention in custody pending investigation, inquiry or trial or would have the effect of sending him for trial before any Court, subject to the provisions of the BNSS, 2023 (Sanhita). We are also required to read Section 4 of the BNSS, 2023 which provides that all offences under the BNSS '2023 shall be investigated, inquired into, tried,



and otherwise dealt with according to the provisions contained hereinafter. Sub-section(2) of Section 4 further provides that all offences under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions , but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

6. Having carefully gone through the provisions of Sections 3 and 4 of the BNSS, 2023, we are of the opinion that the provisions of sub-section(2)(a) of Section 3 cannot be pressed into service so as to assail the validity of the amendment to Section 13(3) of the Registration of Birth and Deaths (Amendment) Act, 2023, whereby the Executive Magistrate appointed under sub-section(1) of Section 20 of the Criminal Procedure Code, 1973 (Section 14(1) of BNSS '2023) has been authorised to make an inquiry into the matter of registration of birth or death on a delayed information beyond the period of one year of its occurrence. The wisdom of the Legislature to confer powers of inquiry upon the Executive Magistrate cannot be questioned by us on the above submission. No other arguments have been pressed.

7. The challenge to the validity of the amended Section 13(3) of Registration of Birth and Deaths (Amendment Act) 2023, is therefore, turned down. The petition stands dismissed.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

C.M. JOSHI