NEUTRAL CITATION

2026:GUJHC:65728

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 13039 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MS. JUSTICE NISHA M. THAKORE

==========

Approved for Reporting	Yes	No

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MANUSHREE MANISH AGARWAL SINCE MINOR THROUGH MOTHER AND NATURAL GUARDIAN ANJU MANISH SINGHAL

Versus

STATE OF GUJARAT & ORS.

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Appearance:
KASHYAP R JANI(8287) for the petitioner(s) No. 1
MR. HENIL SHAH, AGP for the Respondent(s) No. 1,2,3

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CORAM:**HONOURABLE MS. JUSTICE NISHA M. THAKORE**

Date : 16/10/2026

ORAL JUDGMENT

Heard learned advocate Mr. Kashyap R. Jani for the petitioner and learned Assistant Government Pleader Mr. Henil Shah for the respondents – State Authorities.

2. With the consent of learned advocates appearing for the respective parties, the matter is taken up for final hearing. Hence, **Rule**. Learned Assistant Government Pleader Mr. Henil Shah waives service of rule on behalf of the respondents – State Authorities.

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3. By way of the present petition, the petitioner has prayed for following reliefs:

> *A. YOUR LORDSHIPS may be pleased to issue a writ of Certiorari, Mandamus, or any other appropriate writ, order, or direction to quash and set aside the impugned rejection order dated 03.08.2026 passed by Respondent No. 3 ANNEXURE-A, as well as the order dated 21.03.2026 in VISHA/FB/DOMI/12/2026 passed by respondent No.2 rejecting the application for a Domicile Certificate of the petitioner ANNEXURE-B;*
>
> *B. YOUR LORDSHIPS may be pleased to issue a writ of Mandamus directing the Respondents, particularly Respondent No. 3, to forthwith issue the Domicile Certificate in favour of the petitioner based on the application dated 06.12.2025 – ANNEXURE-L;*
>
> *C. Pending admission, hearing, and final disposal of this petition, direct the Respondents to provisionally issue the Domicile Certificate or stay the effect and operation of the impugned rejection orders;*
>
> *D. Pass such other and further orders as may be deemed just and proper in the interest of justice."*

4. The brief facts of the petition are as under:

4.1 The petitioner, Manushree Agarwal (born 03.05.2009 in Alwar, Rajasthan), resides at Flat A-303, Aditya Heavens, Chandkheda, Ahmedabad, Gujarat, with essential civic documents, including identity proof (Aadhaar Card) and residence proofs (electricity bills), registered at the said address.

4.2 The petitioner's father, Manish Singhal (born 04.04.1982), joined the Ministry of Health, Government of India, on 04.02.2010, in a

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central government role subject to periodic transfers across India.

4.3 In May 2014, the family relocated to Ahmedabad, Gujarat, following a central government transfer. On 30.06.2014, a Leave and License Agreement was executed between Babubhai H. Parekh (Licensor) and Manish Singhal (Licensee) for premises at 8, Old Row House, Chandrapuri Apartment, Vastrapur, Ahmedabad.

4.4 During 2014–2015, the petitioner studied in Senior KG at Kidzee School, Gurukul Road, Ahmedabad. From 2015 to 2018, the petitioner completed Standards 1st to 3rd at Kendriya Vidyalaya No. 1, Shahibaug, Ahmedabad.

4.5 In June 2018, the family temporarily relocated to Mumbai, Maharashtra, due to a job transfer of the petitioner's father. From 2018 to 2021, the petitioner completed Standards 4th to 6th at Kendriya Vidyalaya IIT Powai, Mumbai.

4.6 In May 2021, the family relocated back to Ahmedabad, Gujarat. On 10.06.2021, the family purchased and registered a permanent residential property at Flat A-303, Aditya Heavens, Chandkheda, Ahmedabad, via a registered Sale Deed (Index-2).

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4.7 From 2021 to 2023, the petitioner completed Standards 7th and 8th at Global Indian International School, Godrej Garden City, Ahmedabad, with a School Leaving/Transfer Certificate issued on 17.04.2023.

4.8 On 19.08.2022, Election Commission Photo Identity Cards (Voter IDs) were issued to Anju Singhal and Manish Singhal registered at the Chandkheda residential address.

4.9 From 2023 to 2025, the petitioner completed Standards 9th and 10th at Anand Niketan, Sughad, Gandhinagar. The CBSE Secondary School Examination Class 10 Marksheet/Certificate was issued on 13.05.2025, followed by the School Leaving Certificate on 18.05.2025.

4.10 On 13.04.2024, property tax for the residential property at Aditya Heavens was paid to the Ahmedabad Municipal Corporation. During 2025–2026, the petitioner completed Standard 11th (Science Stream) at Puna International School, Zundal, Gandhinagar, and subsequently enrolled in Standard 12th at the same institution for the 2026–2027 academic session. The official transfer orders of the petitioner's father were issued on 09.06.2014, 20.02.2018, 21.07.2023, and 07.06.2024. For the purpose of higher education in the medical

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field (NEET examination), the petitioner submitted an application for a Domicile Certificate (Application No. 37/2026) on 06.12.2025.

4.11 Pursuant to the application, a field inquiry was conducted by the Police Inspector, Chandkheda Police Station. The resulting communication and verification report dated 20.03.2026 confirmed the family's property ownership, absence of a criminal record, and the petitioner's schooling within Gujarat, formally recommending issuance of the certificate.

4.12 On 21.03.2026, Respondent No. 3 rejected the domicile application, citing the 1989 GAD Circular requirement of 10 continuous years of stay, while recording a clerical error that asserted the petitioner studied Standards 4th to 6th in Rajasthan instead of Maharashtra.

4.13 On 05.06.2026, the petitioner filed a statutory Domicile Appeal before Respondent No. 2, submitting that the requirements under Home Department Circular No. DOM/14/2009/F.II

5. Learned advocate for the petitioner submits that the respondent authorities' denial of the Domicile Certificate is arbitrary, discriminatory, and infringes upon Articles 14 and 21 of the

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Constitution of India, jeopardizing the petitioner's rightful educational opportunities. It is further submitted that the competent authority acted in direct contravention of Home Department Circular No. DOM/14/2009/F.II—which overrides generic continuous-stay barriers for established property owners—by wholly ignoring the registered Sale Deed dated 10.06.2021. Both the initial rejection and the appellate order suffer from non-application of mind, having disregarded the positive verification report dated 20.03.2026 from Chandkheda Police Station confirming the family's residency and credentials. It is further submitted that the respondents failed to adhere to binding jurisdictional precedent in **Kavin Shrichand Jakhar vs. State of Gujarat** rendered in Special Civil Application No. 9769 of 2025), which established that temporary relocation outside Gujarat due to parental employment does not break continuous residency; thus, time spent in Mumbai due to the father's central government transfer cannot be excluded from the residency computation.

5.1 Learned advocate for the petitioner has also submitted that the issue on hand is no longer *res-integra*. He submitted that the issue is squarely covered by a catena of decisions. In support of his submissions, he relied upon the decisions in **Muskan Sunilkanth Tiwari versus State of Gujarat, Special Civil Application No.17426**

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of 2018 and allied matters, decided on 05.12.2018; Tilakkumar Vijaykumar Mishra versus State of Gujarat and Others, Special Civil Application No.6118 of 2024, decided on 30.07.2024; and Aman Ramesh Panjiyar versus Mamlatdar Office, Surat and Another, Special Civil Application No.13338 of 2025, decided on 16.10.2025.

5.2 Learned advocate for the petitioner submitted that the aforesaid decisions fairly cover the issue on hand and, therefore, the impugned orders deserve to be quashed and set aside and the respondents may be directed to issue a Domicile Certificate in favour of the present petitioner.

6. Learned Assistant Government Pleader Mr. Henil Shah appearing for the respondent-State vehemently opposed the petition and submitted that, as per the Circular governing the issuance of Domicile Certificates, being Circular No. PTR/1114-65F.II issued by the General Administration Department, Government of Gujarat, the petitioner is required to be a resident of the State of Gujarat for a continuous period of ten years. He submitted that the petitioner has not completed a continuous period of ten years as a resident of the State of Gujarat and, therefore, in view of the aforesaid Circular, the petitioner is not entitled to the issuance of a Domicile Certificate of the State of Gujarat. He, therefore, submitted that the impugned

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orders have been rightly passed.

7. Learned advocate for the petitioner, in rejoinder, submitted that, in fact, the petitioner completed 10 years of schooling within Gujarat (Sr. KG to Standard 3, and Standards 7 to 12), establishing an undeniable intention to reside in the State of Gujarat. He has submitted that, considering the fact that the petitioner has spent the majority of her life in Gujarat, which is more than ten years, and had to reside at Mumbai only for few years on account of his father's transfer, respondents may be directed to issue a Domicile Certificate in favour of the petitioner by quashing and setting aside the impugned orders.

8. I have heard the learned advocates for the respective parties and have perused the record. I have also considered the decisions relied upon by the learned advocate for the petitioner.

9. The Co-ordinate Bench of this Court in the case of **Muskan Sunilkant Tiwari (supra)** thus has held as under.

> *"27. The concept of one's domicile has a definite implication and is directly linked with the situs of one's residence. The term in its ordinary acceptation means, a place where a person lives or has his home. It is a place where a person has his actual residence, inhabitancy or commorancy.*
>
> *28. Domicile as a concept is of immense importance, both in municipal law as well as in Private International Law or the conflicts of laws, as it is called. The concept denotes 'the place of living', or more precisely a permanent residence.*

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Domicile as pointed in Halsbury's Laws of England (Fourth Edition) Volume 8, Paragraph 421 'is the legal relationship between an individual and a territory with a distinctive legal system which invokes that system as his personal law.' Although the notion which lies behind the concept of domicile is of 'permanent residence' or a 'permanent home', yet domicile is primarily a legal concept for the purposes of determining what is the 'personal law' applicable to an individual and therefore, even if an individual has no permanent residence or permanent home, even then he is invested with a 'domicile' albeit by law or implication of law. There are three main categories or classes of domicile, A) Domicile of Origin, B) Domicile of Choice, and C) Domicile by law. 'Domicile of origin' is the domicile which each person has at birth i.e. the domicile of his father or his mother. 'Domicile of choice' is the domicile which a person of full age is free to acquire in substitution for that which he presently possesses. In other words, the 'domicile of origin' is what is attached to person by birth whereas the domicile of choice is what is acquired by residence in a territory subject to a distinctive legal system with the intention to reside there permanently or indefinitely. What should be always remembered is that a domicile denotes an area with a separate and distinctive legal system and not just a particular place in a country. This aspect is elaborated in paragraph 442 of Halsbury's Laws of England (Fourth Edition) Volume 8, which states as under:

"Even person who has, or whom the law deems to have, his permanent home within the territorial limit of a single system of law is domiciled in the country over, which is the whole of that country even though his home may be fixed at a particular spot within it."

41. The only interpretation that can be given to the term 'domicile' as contained in the rules is residence of a particular kind. This residence, however, need not be continuous but it must be indefinite not purely fleeting. It is difficult to lay down an absolute definition of the word 'domicile'. Even the State Government, while amending the rules and introducing the concept of domicile, understood the same to be a resident within the State of Gujarat. One of the earliest and yet the simplest definitions of this expression was attempted by Chitty J. in Craignish v. Craignish, (1892)3 Ch. 180, at p.192(a) in the following terms :

"That place is properly the domicile of a person in which his habitation is fixed

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without any present intention of removing therefrom."

42. However, it is the Administrative Instructions of 8th June 1989 issued by the General Administration Department of the State Government to all the District Magistrates and the Commissioner of Police, Ahmedabad, that triggered the controversy. A close reading of the said Administrative Instructions would indicate that it talks about continuous stay within the State of Gujarat for a period of ten years.

43. Ms.Shah, the learned Government Pleader, pointed out that Shruti Pankaj Singh was born at Meerut, Uttar Pradesh, and studied upto Standard-II at Navi Mumbai and thereafter from 2009 she studied at Vadodara. She was admitted in Standard-IV in the year 2009. Despite such factual position, in her application dated 7th June 2018 seeking Domicile Certificate, she has stated that she is residing in the State of Gujarat for last twelve years. In the same way, in the case of Astha Dipak Tripathi, she was born at Pune, Maharashtra. She studied from Standard-I to IV at Pune and then from 2009 onwards, i.e. from Standard- V, she studied at Vadodara till the last. However, in her application, she has stated that she is residing in the State of Gujarat for last thirteen years. In the case of Vikalp Devendra Panchal, he was born at Nalasopara, State of Maharashtra. Upto Standard-VII he studied at Thane and thereafter from Standard- VIII, he started studying at Vadodara. However, in the application, he has stated that he is residing in the State of Gujarat for last fifteen years. In the case of Muskan, she was born at Alwar, Rajasthan, and studied upto Standard-VIII at Bhatinda, Punjab, and thereafter from Standard-IX, she started studying at Bharuch. In her case, it is pointed out that she not remained present for verification.

44. It appears from the submissions of Ms.Shah that according to the State Government, the students did not study continuously for a period of ten years in the State of Gujarat. The parents of each of the writ-applicants might be residing within the State of Gujarat past more than ten years but the requirement, according to the State Government, is continuous study for ten years within the State of Gujarat.
"47. The final conclusion may be summarised as under :

(1) Rule 4(1-A) of the Amendment Rules, 2018, merely provides that the candidate/student must be 'domicile of Gujarat State'. The said rule does not

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define the term 'domicile' or 'domicile of Gujarat State'.

(2) Rule 4(1-A) does not provide that only those candidates/students who establish 'minimum continuous stay of ten years in the State of Gujarat at the time of application' can be considered eligible for the 'domicile of Gujarat State'.

(3) The only interpretation that can be given to the term 'domicile' as contained in the rules is residence of a particular kind. This residence, however, need not be continuous but it must be indefinite not purely fleeting.

(4) Rule 4(1-A) does not provide or postulate the condition or requirement that the student must adduce necessary evidence to establish minimum continuous stay of ten years in Gujarat. The rule does not prescribe or postulate any other or further or additional requirement or condition for acquiring status as 'domicile of Gujarat'.

(5) When any other requirement is not prescribed by the rules, then such requirement cannot be introduced by the State by way of a letter or even a circular.

(6) Merely because a student shifts himself outside the State of Gujarat for few years to pursue his studies in a school outside the State of Gujarat as a boarding student and returns to the State of his permanent residence and starts residing with his parents and also pursues further education (Standard-IX to XII), then in such circumstances the period for which he remained outside the State of Gujarat his studies as a boarding student cannot be excluded while computing 'minimum continuous stay of ten years in Gujarat State'.

(7) The materials on record indicate that the parents of all the four writ-applicants are residing in the State of Gujarat past more than ten years and thereby it could be said that they have declared their intention to settle in the State of Gujarat atleast for the present, if not for all times to come. The materials do further indicate and it is not in dispute that the four writapplicants have studied in the State of Gujarat from Standard-V onwards upto Standard- XII.

(8) The Domicile Certificates which were already issued in favour of the writ-

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applicants should not have been cancelled relying on the Administrative Instructions of 8th June 1989 issued by the General Administration Department of the State Government.

(9) The case on hand is not one of adopting unfair means or any malpractice in obtaining the Domicile Certificates. The Domicile Certificates were issued to each of the writ applicants after proper inquiry having regard to the information furnished by the writ-applicants."" 8. While keeping in mind the aforesaid decisions, if the facts of the present case are considered, then it would reveal that admittedly the petitioner has studied in the State of Gujarat for almost 11 years. However, in the interregnum period, because of his father's deputation at France, petitioner had to go out of State of Gujarat for four years along with his parents and that is how the break has been created. The coordinate Bench of this Court has already considered that if student goes out of State of Gujarat for few years to pursue his study and returns to the State of his permanent residency and pursue further education, in that event, the period for which the student remained outside the State of Gujarat, cannot be excluded while computing minimum continuous stay of ten years in the State of Gujarat. Thus, the petitioner of the present case had to go out of State of Gujarat because of service of his father for certain period and thereby it would not be reasonable to consider the said period as break while counting continuous residency for ten years in the State of Gujarat. 9. Accordingly, this Court, in absence of any distinguishable facts, would not be able to take a different view than that of taken by the coordinate Bench of this Court in the case of Muskan Sunilkant Tiwari (supra) and Tilakkumar Vijaykumar Mishra (supra). 10. Accordingly, the present petition deserves to be allowed and is hereby allowed. The impugned order dated 11th July, 2025 is hereby quashed and set aside. The authority concerned is hereby directed to issue Domicile Certificate to the petitioner immediately, preferably by 09.00 p.m. today or not later than 10.00 am tomorrow i.e. 17th October, 2025. Direct service is permitted, today."

10. The ratio laid down in the aforesaid two decisions was also followed in the case of **Aman Ramesh Panjiyar *(Supra)***. Hence, I am not reproducing the relevant extracts from the said decision.

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11. In view of the aforesaid decisions relied upon by the petitioner, it emerges from the record that, except for few years, the petitioner pursued her education in the State of Gujarat right from (Sr. KG to Standard 3, and Standards 7 to 12) in various schools. The petitioner had to reside and study in other State only for a period of few years on account of the transfer of her father, and it is only on account of the said transfer that the break in the continuous period of ten years came to be created.

12. The Co-ordinate Bench of this Court has already considered the aspect that where a student goes outside the State for a few years to pursue studies and thereafter returns to the State of his/her permanent residence to pursue further education, the period during which the student remained outside the State of Gujarat cannot be excluded while computing the minimum continuous stay of ten years in the State of Gujarat.

13. In the present case, the petitioner was compelled to reside outside the State of Gujarat for a period of few years solely on account of the transfer of her father. Therefore, in view of the aforesaid decisions, it would not be reasonable to treat the said period as a break while computing the petitioner's continuous residence in the State of Gujarat for the purpose of the requirement

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of ten years.

14. Accordingly, in the absence of any distinguishable facts having been brought on record by the learned Assistant Government Pleader Mr. Henil Shah, the case of the petitioner is required to be considered in the light of the decisions relied upon by the petitioner. Hence, the petitioner is entitled to succeed.

15. Accordingly, the impugned orders dated 03.08.2026 passed by the respondent no.3 and 21.03.2026 passed by respondent no.2 are hereby quashed and set aside. The respondent - concerned authority is directed to issue a Domicile Certificate in favour of the petitioner immediately, preferably within a period of **Three Weeks** from the date of receipt of the copy of this order.

16. The petition is accordingly allowed. Rule is made absolute. Direct service is permitted.

(NISHA M. THAKORE,J)

SUYASH SRIVASTAVA

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