

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2879 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
DN PATEL

Versus

DIR OF EDUCATION

-----  
Appearance:

MR NM KAPADIA for Petitioner

MR DD VYAS for Respondent No. 2 & 3

MR DA BAMBHANIA AGP for Respondent No. 1

-----  
CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 30/10/96

ORAL JUDGEMENT

Rule returnable today. Mr. DA Bambhania learned AGP waives service of rule on behalf of respondent no. 1 and Mr. DD Vyas learned advocate waives service of rule on behalf of respondents nos. 2 and 3.

In the month of December, 1988 a complaint was lodged against the petitioner for commission of offence under sections 147, 148, 149, 302 and 323 of IPC. Pursuant to the said complaint, the petitioner was arrested and he was placed under suspension on 17th December, 1988. By the judgment and order dated 21.1.1990 the learned Sessions Judge, convicted the petitioner.

Pursuant to the said conviction, under order dated 30.5.1990 the petitioner was dismissed from the service.

Against the order of conviction, the petitioner had preferred an appeal before this Court being Criminal Appeal No. 72 of 1990. By the judgment and order dated 11.10.1993 this Court has allowed the said appeal and the petitioner has been acquitted of the charges made against him. IN view of the said acquittal, the petitioner has preferred this petition and has claimed that the order of termination of his service may be quashed and set aside and the petitioner be reinstated in service.

Pending this petition, the petitioner has been reinstated in service on 12.7.95. Be it noted that the petitioner's service was terminated solely on account of conviction by the learned Sessions Judge. Since the petitioner has been acquitted by this Court, the order of termination of service cannot be sustained. In that view of the matter, the impugned order dated 30-5-1990 Annexure-B to the petition is quashed and set aside. It is directed that the respondent no. 2 shall make necessary orders regulating the period spent by the petitioner under suspension as well as the period during which the petitioner's service was terminated. Such decision shall be taken within a period of four months from today. The petition is allowed accordingly. Rule is made absolute with no order as to costs.

\*\*\*\*\*