

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2145 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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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?

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JAYANTIBHAI BABUBHAI PATEL

Versus

DISTRICT COLLECTOR

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Appearance:

MR KS JHAVERI for Petitioner

Ms. Harsha Devani, A.G.P.for Respondent No. 1

MR RS SANJANWALA for Respondent No. 2

SERVED BY DS for Respondent No. 3

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 29/08/97

ORAL JUDGEMENT

Rule.

It is contended by the learned counsel for the petitioner that the impugned order has been passed without affording an opportunity of being heard to the petitioner. It is

also contended that Ms. S. Aparna, Collector of Valsad who has been transferred by order dated February 2, 1997 has passed the impugned order on March 3, 1997. Without entering into the controversy whether she was relieved before March 3, 1997 or she had heard the matter prior to that or the fact that it was signed earlier but despatched only on March 3, 1997, the order deserves to be set aside on the first ground as the same has been passed without giving any opportunity of hearing to the petitioner. Moreover, as a matter of propriety, once an officer is under transfer he should not pass any effective order unless circumstances so require. In case order was passed on January 31, 1997 she should have clearly mentioned in the order itself that it was signed on January 31, 1997.

In view of the aforesaid facts, the Special Civil Application is allowed and the impugned order dated March 3, 1997 is quashed and set aside. The petitioner to appear before the District Collector at Valsad on 15.9.1997. The Collector will pass fresh order after hearing the petitioner.

Rule is made absolute. No order as to costs. Direct service is permitted.