

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 907 of 1999

in

SPECIAL CIVIL APPLICATION No 4334 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL Sd/-

and

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
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? : NO  
1 to 5 No

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NP DALWADI

Versus

STATE OF GUJARAT  
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Appearance:

MR NK MAJMUDAR for Appellants

MR PREMAL JOSHI AGP for Respondent No. 1

RULE SERVED for Respondent No. 2

MR MUKESH R SHAH for Respondent No. 3,4, 5  
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CORAM : MR.JUSTICE B.C.PATEL

and

Date of decision: 29/02/2000

ORAL JUDGEMENT (Per B.C.Patel, J.)

On bifurcation of the Panchmahals District into two districts, namely, Panchmahals and Dahod, it appears that the petitioners were sent for an indefinite period from R&B Department of District Panchayat, Panchmahals at Godhra to R&B Department of District Panchayat, Dahod. Their services might be required in another district. That is one of the aspect which is to be taken into consideration. It is also required to be noted that choice is also given to the employees and they also filed their option and, therefore, they have disclosed their willingness as to in which district they would like to continue. Mr.Shah submitted that the petitioners have been asked to work in another district temporarily as no staff is available there. It may be so, but it cannot be as a permanent measure.

2. We have perused the decision rendered by the learned Single Judge in this matter. The learned Single Judge has expressed an opinion that the grievance of the petitioners could be looked into by the State Government on its administrative side. The order is passed on 22.5.1999. Till today, nothing has been done by the State Government in this behalf. The questions of seniority, transfer are the aspects which are required to be taken into consideration. It may be that the petitioners may not have any case, then, in that case, the petition would be dismissed. In the instant case, while dismissing the petition, the petitioners were directed to file a detailed representation.

3. It is submitted by Mr.Majmudar that the order is passed by His Excellency the Governor and, therefore, the Secretary would not be in a position to pass any order against the order issued by His Excellency the Governor. It is under these circumstances we think it just and proper to allow this appeal. It will be for the Court to decide the matter on merits. We are not expressing any opinion on merits as the matter stands remanded.

4. In the result, the appeal stands allowed accordingly with no order as to costs. The order passed by the learned Single Judge is quashed and set aside.

(KMG Thilake)

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