

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3562 of 2004

with

CIVIL APPLICATION No 5517 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH

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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 concerned : NO  
Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals?

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PATEL VIPULCHANDRA

JASHVANTBHAI

Versus

STATE OF GUJARAT  
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Appearance:

1. Special Civil Application No. 3562 of 2004  
MR BM MANGUKIYA for Petitioner No. 1-10  
MS MITA PANCHAL AGP for Respondent No. 1-2  
NOTICE SERVED BY DS for Respondent No. 3  
MR HS MUNSHAW for Respondent No. 4-5  
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CORAM : HON'BLE MR.JUSTICE M.S.SHAH

Date of decision: 30/09/2004

ORAL JUDGEMENT

RULE. Ms Mita Panchal, learned AGP waives service  
of Rule for respondents No.1 and 2. Mr Munshaw waives

service of rule for respondent Nos.3 to 5.

In the facts and circumstances of the case, the petition is taken up for final disposal today as the facts are not in dispute.

2. Heard the learned counsel for the parties.

3. Having regard to the decision dated 3.12.2002 of the Full Bench of this Court in Special Civil Application Nos.13363 of 2000 and 8075 of 2001 and other connected matters laying down that "a person holding the degree of Graduate- B.Ed. is a "trained teacher" for Standards VI & VII, but is not a trained teacher for Standards I to V, with regard to his/her appointment as a primary teacher/ Vidhya Sahayak in a Primary School", and having regard to the directions given by another learned Single Judge of this Court through judgment dated 31.8.2004 in Special Civil Application Nos.10446 and 10465 of 2000, the petition is disposed of in terms of the following directions:-

(i) The petitioners, who are possessing the qualification of graduation plus B.Ed. are eligible to be appointed as Trained Teachers/ Vidhya Sahayaks for Std. VI and VII, but not for Stds. I to V in primary schools.

(ii) While the petitioners shall have to apply in response to the advertisement published on 17.7.2004, and the District Primary Education Committee/Officer, Dahod shall accept the applications of the petitioners and similarly situate persons till 20.10.2004, the question of their eligibility for appointment to the posts of Vidhya Sahayak shall be considered with reference to their age on the date of publication of the previous advertisement i.e. 30.12.1999 (Annexure "DD") in response to which the petitioners had applied earlier but a cloud was raised about their eligibility with reference to the educational qualification on account of the controversy whether graduate plus B.Ed. Teachers are eligible for appointment to the posts of Primary Teacher / Vidhya Sahayak and which controversy is now resolved by the decision of the Full Bench.

(iii) The persons who had applied to the District Primary Education Officer, Dahod in response to the advertisement published on 30.12.1999 and who

were eligible on the date of publication of advertisement dated 30.12.1999 for Dahod district, as considered in light of the aforesaid decision dated 3.12.2003 of the Full Bench, and who now get selected during the selection process to be undertaken pursuant to the recent advertisement published on 17.7.2004 shall be given seniority from the date on which other persons were appointed pursuant to the advertisement published on 30.12.1999, but they shall not be entitled to get any salary from that date nor shall they get the benefit of pay fixation or any other monetary benefit on that basis.

4. The petition is accordingly disposed of in terms of the aforesaid directions.

Rule is made absolute with no order as to costs.

5. In view of the aforesaid directions given in the main petition, no orders are required to be passed on the Civil Application seeking interim stay against the recruitment process pursuant to the advertisement published on 17.7.2004 during pendency of the main petition.

The Civil Application is accordingly disposed of.  
Notice is discharged.

Direct service is permitted.

(M.S. SHAH, J.)

zgs/-