

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 7596 of 1997****For Approval and Signature:****HONOURABLE MR.JUSTICE M.S.SHAH**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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PR GADIGI - Petitioner(s)**Versus****INDIAN PETROCHEMICALS CORPORATION & 4 - Respondent(s)**

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Appearance :

MR GIRISH PATEL for Petitioner(s) : 1,
MRS VD NANAVATI for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2 - 5.

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CORAM : HONOURABLE MR.JUSTICE M.S.SHAH**Date : 30/10/2006****ORAL JUDGMENT**

In this petition filed under Article 226 of
the Constitution in the year 1997, the petitioner
challenged his non-promotion/non-upgradation to the
post of Senior Manager under the Indian

Petrochemicals Corporation Ltd., which was then a Government company.

2. The petition was contested by filing affidavit-in-reply dated 8.12.1997 and also by additional affidavit-in-reply dated 29.4.1998 on merits pointing out that the petitioner's case was considered by the Departmental Promotion Committee, but the Committee did not recommend the petitioner for promotion/upgradation in the year 1993 and also in the year 1997. Thereafter further affidavit dated 26.10.2004 has been filed on behalf of the respondents pointing out that respondent No.1 is no longer a Government company and that 26% of the shares in respondent No.1-company have been sold by Government of India to M/s. Reliance Petro Investments Ltd.. It is further submitted that respondent No.1 is not a "State" within the meaning of Article 12 of the Constitution. It is also stated that the petitioner has been granted VRS w.e.f. 25.6.2003.

3. At the hearing of this petition, Mr SN Shelat instructed by Ms Vaibhavi Nanavati has submitted that in the decision dated 6.4.2005 in Letters Patent Appeal No.736 of 1994, a Division Bench of this Court has considered the question of maintainability of a petition against respondent no.1- company. There also the petition was filed in the year 1982, but by the time the petition reached hearing in April 2005, respondent No.1 was taken over

by M/s. Reliance Petro Investments Ltd.. The Division Bench upheld the contention of respondent No.1 that it was no longer a State within the meaning of Article 12 of the Constitution and, therefore, the writ petition was not maintainable, although it was filed as far back as in the year 1982 when it was being considered as a State. The Division Bench accordingly dismissed the appeal on the ground that the writ petition filed in the year 1982 itself was not maintainable. The Division Bench, however, clarified that if law provides any other forum to the petitioners for redressal of their grievance, then they would be free to approach such forum in accordance with law.

Similar view was taken by a learned Single Judge of this Court (Coram: Hon'ble Mr Justice KS Jhaveri) on 17.8.2004 in Special Civil Application No.2993 of 1999 wherein the Division Bench judgment has also been followed and also by another learned Single Judge of this Court (Coram: Hon'ble Mr Justice Anant S Dave) on 2.3.2005 in Special Civil Application No.10471 of 1996.

4. In view of the above consistent view of this Court, this Court is not required to look into even the question of maintainability of this petition afresh.

5. The petition is accordingly dismissed as not maintainable. Rule is discharged.

It is, however, made clear that if law provides any other forum to the petitioner for redressal of his grievance then the petitioner would be free to approach such forum in accordance with law.

(M.S. SHAH, J.)

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