

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**  
**SPECIAL CIVIL APPLICATION No. 13106 of 2000**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE R.S.GARG**  
**HONOURABLE MR.JUSTICE M.R. 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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**TUTON PHARMACEUTICALS & 1 - Petitioner(s)**  
**Versus**  
**UNION OF INDIA & 2 - Respondent(s)**

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**Appearance :**

MR PARESH M DAVE for Petitioner(s) : 1 - 2.  
None for Respondent(s) : 1 - 3.

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**CORAM : HONOURABLE MR.JUSTICE R.S.GARG**

**and**

**HONOURABLE MR.JUSTICE M.R. SHAH**

**Date : 30/06/2006**

**ORAL JUDGMENT**

**(Per : HONOURABLE MR.JUSTICE R.S.GARG)**

Mr. P.M. Dave, learned counsel for the petitioner submits that during pendency of this petition, an identical order passed against the interest of the petitioner was taken to appeal and the appellate forum decided in favour of the petitioner on the question of classification. He submits that in view of the said appellate order, the petitioner be allowed to withdraw the challenge to the vires and may be given liberty to prefer an appeal to challenge the order impugned so that the appellate forum considers the matter in accordance with law.

The petition is disposed of with liberty in favour of the petitioner that if on or before 10<sup>th</sup> July, 2006, the petitioner files an appeal to the appropriate appellate forum, then, the question of delay shall not be considered, the appeal shall be decided on merits. It is further made clear that our order does not mean that other requirements of law are given a go-bye. This liberty, we are extending in favour of the petitioner in view of the fact that the petitioner had been bona fide prosecuting this petition since 2000. Rule is discharged. No costs. Interim relief, if any, stands vacated.

[R.S. GARG, J.]

[M.R. SHAH, J.]

**pirzada/-**